

# EMPOWERING PEOPLE AFFECTED BY HIV TO PROTECT THEIR RIGHTS AT HEALTH CARE SETTINGS

Training Manual –  
Participant's Handbook

## POSITIVE PROTECTION



Empowered lives.  
Resilient nations.





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# ACRONYMS

<b>CHRC</b>	Cambodian Human Rights Committee
<b>CEDAW</b>	Convention on the Elimination of all Forms of Discrimination Against Women
<b>HIV</b>	Human Immunodeficiency Virus
<b>ICESCR</b>	International Convention on Economic, Social and Cultural Rights
<b>IWRAW</b>	International Women's Rights Action Watch
<b>NGO</b>	Non-Governmental Organization
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UN</b>	United Nations
<b>UNAIDS</b>	Joint United Nations Programme on HIV/AIDS
<b>UNDP</b>	United Nations Development Programme
<b>UPR</b>	Universal Periodic Review

## HANDOUT 1: YOUR HUMAN RIGHTS WHEN GOING FOR HEALTH CARE

### Some important notes about human rights:

- Rights are listed and explained in international documents called treaties or covenants.
- After a country signs a human rights treaty or covenant, the governmental body in charge of making laws must ratify it. Once ratified, the country has officially agreed to implement the rights in the treaty or covenant. It should then change its laws so that they match the human rights in the treaty or covenant they signed.
- However, not all countries fully recognize and protect all aspects of human rights in their national legal frameworks. Sometimes national laws do not recognize and protect a right at all; sometimes they restrict or limit the exercise of the right or recognize only part of it. Sometimes laws are not consistent. In such cases, communities and other stakeholders can lobby the government to take action to ensure the recognition of all aspects of the right as recognized under international law.
- Not all human rights are absolute. They are interrelated and interlinked. In certain strictly limited circumstances, it can be acceptable to limit the exercise of one right in order to protect another.

### 1 ALL PEOPLE HAVE THE RIGHT TO BE TREATED EQUALLY.

#### Where this right comes from:

- The Universal Declaration on Human Rights, Article 1
- The International Covenant on Civil and Political Rights, Article 26

**Note:** The text of the articles listed here is in Annex A.

#### What it means:

- No one can treat you differently or discriminate against you because of your HIV status or for any other reason, such as your gender identity, sexual orientation, occupation, sexual behaviour or other personal behaviours.
- When you go for health care, you should be treated like the other clients. Health care workers cannot refuse to treat you or refer you to another health care facility just because you are HIV-positive. Health care workers cannot delay your treatment. They cannot treat you judgementally, rudely or insensitively.
- No one can force you to have an abortion or to get sterilized because of your HIV status. You have the right to choose to continue a pregnancy or to end it (as allowed by law) without being pressured or coerced.

#### Implementation of some or all aspects of this right in Cambodian legal framework:

- Constitution of Cambodia, Articles 31 and 45 (for women)
- Criminal Code, Article 265
- Sub-decree on the Code of Medical Ethics, Articles 7 and 50
- Sub-decree on Code of Ethics for Nurses, Article 5 (3) and (4)
- Sub-Decree on the Code of Ethics for Midwives, Article 5 (11)
- Law on the Prevention and Control of HIV and AIDS, Articles 41 and 42

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## 2

### **ALL PEOPLE HAVE THE RIGHT TO BE TREATED WITH DIGNITY.**

#### **Where this right comes from:**

- The Universal Declaration on Human Rights, Article 1

#### **What it means:**

- You should be treated as a human being with respect and decency.
- When you go for health care, health care workers cannot refuse to give you care, delay your care, send you to the back of the queue, or serve you last.
- Health care workers cannot yell at you, insult you, treat you as if you were immoral, or hit you.
- Health care workers cannot ask you personal questions in front of others or ask you irrelevant questions about your sexual life.
- While they should take normal precautions to protect themselves (as they should do with all clients), they cannot act as if touching you or your children will infect them.

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#### **Implementation of some or all aspects of this right in Cambodian legal framework:**

- Constitution of Cambodia, Articles 38
- Sub-decree on the Code of Medical Ethics, Article 2
- Sub-decree on Code of Ethics for Nurses, Article 5 (2)
- Sub-Decree on the Code of Ethics for Midwives, Article 5 (8)

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## 3

### **NO ONE HAS THE RIGHT TO DISCRIMINATE AGAINST YOU BASED ON YOUR SEX, GENDER OR ANY OTHER CHARACTERISTIC.**

#### **Where this right comes from:**

- The Universal Declaration on Human Rights, Article 2
- The International Covenant on Economic, Social and Cultural Rights, Article 2
- The International Covenant on Civil and Political Rights, Articles 2 and 26
- The Convention on the Elimination of All forms of Discrimination Against Women, Article 2

#### **What it means:**

- You have the right to be treated the same way as others.
- No one should treat you differently because of who you are or because of any characteristic, including your sex, gender or HIV status.
- When you go for health care, you should be treated like the other clients.
- A health care worker cannot refuse to treat you or refer you to another health care facility just because you are HIV-positive. They cannot delay your treatment. They cannot treat you judgementally, rudely or insensitively because of who you are.

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#### **Implementation of some or all aspects of this right in Cambodian legal framework:**

- Constitution of Cambodia, Articles 31 and 45
  - Criminal Code, Article 265
  - Sub-decree on the Code of Medical Ethics, Article 7
  - Sub-decree on Code of Ethics for Nurses, Article 5 (3)
  - Sub-Decree on the Code of Ethics for Midwives, Articles 5 (11)
  - Law on the Prevention and Control of HIV and AIDS, Articles 41 and 42
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**4****ALL PEOPLE HAVE  
THE RIGHT TO LIFE.****Where this right comes from:**

- The Universal Declaration of Human Rights, Article 3
- The International Covenant on Civil and Political Rights, Article 6

**What it means:**

- No one can try to end your life.
- If your life is at risk, you have the right to be protected.
- No one can keep things from you that you need to stay alive.
- You have the right to access health care that can save your life, for example, ART, or any other treatment that you need.
- No one can delay your access to health care when the delay will put your life at risk.

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**Implementation of some or all aspects of this right in Cambodian legal framework:**

- Constitution of Cambodia, Article 32
- Criminal Code, Article 207
- Sub-decree on the Code of Medical Ethics, Article 2
- Sub-decree on Code of Ethics for Nurses, Article 5 (2)
- Sub-Decree on the Code of Ethics for Midwives, Article 5 (8)

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**5****NO ONE HAS THE  
RIGHT TO TORTURE  
YOU, TREAT YOU  
CRUELLY OR IN A  
DEGRADING WAY.****Where this right comes from:**

- The Universal Declaration of Human Rights, Article 5
- The International Covenant on Civil and Political Rights, Article 7

**What it means:**

- You cannot be given any medical treatment without your knowledge and consent (your agreement). This means you must give your consent before a doctor can sterilize you, or if you are a woman, give you an abortion or deliver your baby by Caesarean section.
  - Before you consent, you must be given all of the information you need to make a good decision for yourself.
  - Your consent must be given freely and when you are not in a stressful or vulnerable situation. For example, you should not be asked to consent to sterilization when you are in labour. However, if your life or the baby's life is in danger, you can be asked to consent to a Caesarean section while in labour since it is an emergency.
  - Health workers cannot pressure, force or coerce you to consent.
  - Health workers cannot injure or harm you when they provide care.
  - No one should treat you in a way that makes you feel bad or ashamed about yourself, or that makes you feel less than others or less than human.
  - Health care workers cannot insult you, yell at you, physically harm you, or treat you as if you are immoral or dirty.
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**Implementation of some or all aspects of this right in Cambodian legal framework:**

- Constitution of Cambodia, Article 38
- Criminal Code, Article 236
- Sub-decree on the Code of Medical Ethics, Articles 34 and 39
- Sub-decree on Code of Ethics for Nurses, Articles 5 (15) and 10
- Sub-Decree on the Code of Ethics for Midwives, Article 11
- Law on Abortion, Articles 4, 8 and 14
- Health care workers cannot delay your care or neglect you when you are delivering a baby or in their care for other reasons.

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**6**  
**THE LAW IS THE SAME FOR ALL PEOPLE; IT MUST BE APPLIED IN THE SAME WAY TO ALL.**

**Where this right comes from:**

- The Universal Declaration of Human Rights, Article 7
- The International Covenant on Civil and Political Rights, Article 26
- The Convention on the Elimination of all Forms of Discrimination Against Women, Article 15

**What it means:**

- All Cambodian laws are the same for everyone – they apply to you in the same way that they do to all other Cambodians. The laws protect you as they do others. People cannot treat you in a way that is against the law.
- Health care providers must follow Cambodian laws when treating you.

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**Implementation of some or all aspects of this right in Cambodian legal framework:**

- Constitution of Cambodia, Article 31

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**7**  
**ALL PEOPLE HAVE THE RIGHT TO SEEK JUSTICE WHEN THEIR RIGHTS ARE NOT RESPECTED.**

**Where this right comes from:**

- The Universal Declaration of Human Rights, Article 8
- The Convention on the Elimination of all Forms of Discrimination Against Women, Article 15
- International Covenant on Civil and Political Rights, Article 14

**What it means:**

- If your rights are not respected, you can take action to get justice.
- If a health care provider does something that violates your rights, you can take action to get justice for yourself.
- You have the right to get legal advice.
- You have the right to the same access to legal aid and assistance (including a lawyer), to assistance from the police, and to take a case to court as people who are not living with HIV.

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**Implementation of some or all aspects of this right in Cambodian legal framework:**

- Constitution of Cambodia, Article 39 and 141
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## 8

### ALL PEOPLE HAVE THE RIGHT TO PRIVACY.

#### Where this right comes from:

- The Universal Declaration of Human Rights, Article 12
- The International Covenant on Civil and Political Rights, Article 17

#### What it means:

- People cannot share personal information about you with others without your permission.
- You should be able to lead your personal life without other people trying to find out what you are doing.
- Other people do not have the right to interfere in your private or intimate life. They do not have the right to tell you what to do or to make decisions for you about your social or sexual life, your body, your health or other personal matters.
- Health care workers must keep your medical information confidential, including your HIV status and/or the status of your family members. The health facility cannot share your HIV status or other private personal information about you with anyone.
- Health care workers cannot make decisions for you about your health care or reproduction.
- You have the right to make these decisions independently and of your own free will. You do not need to involve your family, if you do not want to.

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#### Implementation of some or all aspects of this right in Cambodian legal framework:

- Constitution of Cambodia, Articles 40 and 41
- Criminal Code, Article 314
- Sub-decree on the Code of Medical Ethics, Articles 4, 43, 69, and 70
- Sub-decree on Code of Ethics for Nurses, Articles 5 (13)
- Sub-Decree on the Code of Ethics for Midwives, Article 5 (9)
- Law of the Prevention and Control of HIV and AIDS, Articles 31, 33; exceptions in Articles 34, and 35

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## 9

### NO ONE HAS THE RIGHT TO HARM YOUR GOOD NAME.

#### Where this right comes from:

- The Universal Declaration of Human Rights, Article 12
- The International Covenant on Civil and Political Rights, Article 17

#### What it means:

- People cannot do or say things that will give you a bad reputation or a bad name.
- Health care workers must keep your personal and medical information, including your HIV status, confidential. They must protect personal information which could be used by others to harm you or discriminate against you.

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#### Implementation of some or all aspects of this right in Cambodian legal framework:

- Constitution of Cambodia, Article 41
  - Criminal Code, Article 314
  - Sub-decree on the Code of Medical Ethics, Articles 4, 43, 69, and 70
  - Sub-decree on Code of Ethics for Nurses, Articles 5 (13)
  - Sub-Decree on the Code of Ethics for Midwives, Article 5 (9)
  - Law of the Prevention and Control of HIV and AIDS, Articles 31 and 33
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**10**  
**EVERYONE HAS THE  
RIGHT TO MARRY  
AND HAVE A FAMILY.**

**Where this right comes from:**

- The Universal Declaration of Human Rights, Article 16
- The International Covenant on Civil and Political Rights, Article 23
- The Convention on the Elimination of all Forms of Discrimination Against Women, Article 16

**What it means:**

- You can get married and have children if you want to.
- Health care workers cannot tell you that you shouldn't have children.
- Health care workers cannot prevent you from having children because you are HIV positive – they cannot force you to take contraception, to have an abortion or to be sterilized. They cannot sterilize you without your knowledge and informed consent.

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**Implementation of some or all aspects of this right in Cambodian legal framework:**

- Constitution of Cambodia, Article 45

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**11**  
**EVERYONE HAS THE  
RIGHT TO DECIDE  
FREELY AND  
RESPONSIBLY HOW  
MANY CHILDREN  
THEY WANT TO HAVE  
AND WHEN.**

**Where this right comes from:**

- The Convention on the Elimination of all Forms of Discrimination Against Women, Article 16

**What it means:**

- You can decide for yourself how many children you want to have and when you want to have them.
- Health care workers do not have the right to make those decisions for you by pressuring or forcing you to use contraception, have an abortion or be sterilized.
- Health care workers cannot give you an abortion or sterilize you without your knowledge and informed consent. Before you can consent or agree, you must be given all of the information you need to make a good decision by yourself.

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**Implementation of some or all aspects of this right in Cambodian legal framework:**

- Law on Abortion, Articles 4, 8 and 14
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## 12

### EVERYONE HAS THE RIGHT TO HEALTH.

#### Where this right comes from:

- The Universal Declaration of Human Rights, Article 25
- The International Covenant on Economic, Social and Cultural Rights, Article 12
- The Convention on the Elimination of all Forms of Discrimination Against Women, Article 12

#### What it means:

- You have the right to access basic medical care and other services and goods you need to be as healthy as possible, for example, safe and nutritious food, safe drinking water, and health information and education.
- Basic health care should be accessible, of good quality, and provided equally and without discrimination to all. You cannot be discriminated against at health care services or by health care workers. You cannot be denied health care or medical treatment because of your HIV status. You cannot be sent to another health care facility or another health care worker only because of your HIV status.
- You have the right to care and treatment for HIV. ART medicines and condoms should be available to you when you need them. If you are pregnant, you have the right to the medicines you need to protect your baby from HIV.
- You must give your free and informed consent to health care procedures, such as contraception, abortion and sterilization. You cannot be pressured or forced to consent to these. You cannot be given contraception or an abortion or sterilized without your knowledge.

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#### Implementation of some or all aspects of this right in Cambodian legal framework:

- Constitution of Cambodia, Articles 46 and 72
- Criminal Code, Articles 207, 236, and 265
- Sub-decree on the Code of Medical Ethics, Article 9
- Sub-decree on Code of Ethics for Nurses, Articles 7 and 12
- Sub-Decree on the Code of Ethics for Midwives, Articles 7 and 13
- Law on the Prevention and Control of HIV and AIDS, Articles 26 and 41

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## 13

### NO ONE HAS THE RIGHT TO GIVE YOU MEDICAL TREATMENT WITHOUT YOUR INFORMED CONSENT OR AGREEMENT.

#### Where this right comes from:

- The Universal Declaration of Human Rights, Articles 3 and 25
- The International Covenant on Economic, Social and Cultural Rights, Article 12

#### What it means:

- You have the right to control you own body and to decide what will be done to it.
  - You have the right to refuse to agree to or sign anything that you do not understand.
  - No one can force you to take a treatment or to have a surgery. No one can perform a treatment or surgery on you without your knowledge and agreement. You must be given all the information you need to make a good decision for yourself. No one can sterilize you without your knowledge and/or agreement.
  - You have the right to freely choose to withdraw your consent at any time.
  - You have the right to refuse any treatment.
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**Implementation of some or all aspects of this right in Cambodian legal framework:**

- Constitution of Cambodia, Article 38
- Sub-decree on the Code of Medical Ethics, Articles 34 and 39
- Sub-decree on Code of Ethics for Nurses, Articles 5 (15) and 10
- Sub-Decree on the Code of Ethics for Midwives, Article 11
- Law on Abortion, Articles 4, 8 and 14

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**14  
EVERYONE HAS THE  
RIGHT TO  
INFORMATION ON  
ANY MATTER THAT IS  
IMPORTANT TO THEM  
(UNLESS  
CONFIDENTIALITY OR  
SECRECY IS  
REQUIRED BY LAW).**

**Where this right comes from:**

- The Universal Declaration of Human Rights, Article 19
- The International Covenant on Civil and Political Rights, Article 19

**What it means:**

- You have the right to get correct information in any situation.
- You have the right to see documents or papers about you.
- A health care worker must provide you with correct and complete information about your health and your choices. The information should be explained to you in a way that you can understand.

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**You have the right to ask questions to better understand the information given to you.**

**Implementation of some or all aspects of this right in Cambodian legal framework:**

- Sub-decree on the Code of Medical Ethics, Article 33
  - Sub-decree on Code of Ethics for Nurses, Article 11
  - Sub-Decree on the Code of Ethics for Midwives, Articles 5 (5) and 12
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## ▶ WORKSHEET 1:

### WERE THEIR RIGHTS VIOLATED?

Instructions: Read the cases assigned to your group and discuss if the person's rights were violated or not. Give the reasons for your answer.

1. Last week Atith had an HIV test at a VCT centre. The test result was positive. When the nurse asked him how he thought he got HIV, he told her that he sometimes had sex with men. The nurse who did the test grew up in the same village as Atith's wife. When the nurse saw his wife later that week, she told her that Atith had HIV and got it by having sex with men. Were Atith's rights violated? Why or why not?
2. Kalianne is HIV positive. She realized she was pregnant and went to the clinic for antenatal care. The doctor advised her to have an abortion because he said she would not live long enough to bring up the child, so it was irresponsible for her to give birth. Were Kalianne's rights violated? Why or why not?
3. Munny went to the health centre because he was feeling sick with the flu. Although he arrived at 9 in the morning, he was the last person that Dr. Khan saw that day. He noticed other people who came in later were seen before him. When he asked Dr. Khan about it, the doctor said that he saw him last because he didn't want to see other patients after his medical equipment could be contaminated. Did Dr. Khan violate Munny's rights?
4. After Mliss gave birth, Dr. Sok advised her about breastfeeding her child. Dr. Sok told her that for the best results she and her child should take ART and she should breastfeed the baby. She advised this even though there is a small chance that the baby could get HIV from breastfeeding. Dr. Sok said very forcefully, "Mliss, you absolutely MUST take the ART drugs correctly, exactly the way I told you to!! Can you do that?" Mliss said she could. Did Dr. Sok violate Mliss's rights? Why or why not?
5. Rangsei went to the district hospital to deliver her baby. When the doctor found out that she was HIV positive, he told her that because she was HIV she needed to have her tubes tied when she delivered the baby. Rangsei knew that she did not want to have her tubes tied right now, but the doctor didn't ask her what she wanted. He just said he would do it. When he asked her to sign the paper, she did. Were Rangsei's rights violated? Why or why not?
6. Bopha is HIV positive and pregnant. She wants to deliver her baby naturally. At the hospital, after about 10 hours of labour, the doctor told her that the delivery was not progressing and he was worried that the baby might not survive. He advised her to have a Caesarean section. She was exhausted and felt a bit unsure about what to do, but she didn't want her baby to die, so she signed the consent form for the Caesarean section. Were Bopha's rights violated? Why or why not?

## ▶ WORKSHEET 2: FORM FOR DOCUMENTING RIGHTS VIOLATIONS

Individuals who experience or witness a rights violation in a health care setting can use this form. Networks can also use it if their members come to them and ask them to help them to document a rights violation that happened to them. You should document any rights violation as soon as possible after it occurs.<sup>1</sup>

Instructions: Read each item and answer the questions as best you can. If you can't remember or don't know the answer, write that in the space provided. If you need more room, use additional pieces of paper.

**Date of report (day, month, year):**

**Person giving the report:**

Are you the person whose rights were violated?

Yes \_\_\_\_\_ No \_\_\_\_\_

Are you a witness to a violation of rights?

Yes \_\_\_\_\_ No \_\_\_\_\_

**Consent:** If you are filling out this form for someone else, ask them if they agree that you record the rights violation that they experienced. If they agree, ask them to sign or put their thumbprint here:

**Signature or thumbprint:**

\_\_\_\_\_

**Contact details of person giving the report (optional)**

Surname/Name:

Address:

Phone number:

Email:

**Incident (Make a separate report for each incident):**

\_\_\_\_\_

**Date:** When did the incident happen? (Day, month and year)

**Time:** What time did it happen? (If not sure of time, was it morning, afternoon, evening, night or over a long period?)

**Name of the health facility:** Where did it happen?

\_\_\_\_\_

**Location:** Where is the health facility? (City, village, district, region)

**Type of facility:** Is it a public or private health facility?

**Type of service:** Why were you at the health facility?

**Perpetrator:** Who committed the rights violation?

Name:

Position: If name is not known, describe the person (age, height, weight, hair colour, marks, physical features, etc.)

**Description:** What happened before the rights violation occurred?

What happened when the rights VIOLATION occurred?

**Describe in detail:** What did the person do? What did they say? How did you respond?

<sup>1</sup> This form is adapted from the reporting form for victims of homophobic and transphobic incidents developed by the International Lesbian and Gay Association – Europe.

**Witnesses:** Did anyone else see what happened?

How did they react?

How many people saw what happened?

Do you know the names of the witnesses? If yes, please write their names and where they live.

**Motive:** Why do you think that this happened? You can choose several answers. Check the boxes.

<b>Because I am:</b>	<input type="checkbox"/>	<b>Because of my:</b>	<input type="checkbox"/>
Living with HIV		Sex	
A man who has sex with men		Age	
Transgender		Race or ethnicity	
Not acting or dressing like a typical man or woman		Religion	
A person who uses drugs		Nationality	
An entertainment worker		Work or occupation	
Living with a disability			
Other, explain:			

Why do you think it happened for those reasons? For example, did the person use specific words or language? Did the person just find out or know or think something about you that might cause them to act that way (i.e. that you are HIV positive, a sex worker, a man who has sex with men or transgender)?

**Psychological care and support:** Was psychological care and support needed after the incident? If yes, what care was needed?

Was psychological care sought? If yes, explain where, what care and who gave the treatment? (for example, a psychologist, support group, friends, family, network, non-governmental organization (NGO))

### **Consequences and Follow-Up Actions**

**Physical injuries:** Did the incident result in physical injuries, harm or pain? If yes, what?

**Medical care:** Was more medical care needed because of what happened? If yes, what care was needed?

**Reporting:** Was the incident reported to anyone? If yes, describe – who, when, how.

Was more medical care sought? If yes, explain where, what care and who gave the treatment.

**Witnesses do not need to answer the FOLLOWING questions.**

**Psychological harm:** Did the incident cause psychological or mental pain or harm? If yes, please describe it.

**Financial impact:** Was there any financial impact on you? If yes, describe.

**Family impact:** Was there any impact on your family? If yes, describe.

**Social impact:** Was there any impact on your personal life or social life? If yes, describe.

**Job impact:** Was there any impact on your job or work? If yes, describe.

**Other impact:** Was there any other kind of impact? If yes, describe.

**Evidence:** Are there documents, photos, audiotapes or videotapes (such as security camera tapes) that show what happened or prove any part of what happened? If yes, list them here. Keep these together in a safe place. If possible, make copies and keep them with this report.

Documents can include medical records, medical bills, evidence that you were seen by a specific health care provider, and prescriptions. Get written statements from witnesses, if possible. If you have been physically injured, take photos of your injuries. If the physical and emotional harm continue over some time, keep a record or diary of your physical and emotional condition.

## ▶ HANDOUT 2: HOW TO COMPLAIN TO A HEALTH FACILITY

If you have decided that you want to make a complaint about how you were treated at a health facility, the first thing you will need to do is decide how you will make your complaint. **There are two ways you can make a complaint – verbally or in writing.**

### Making a Verbal Complaint

If you want to make a complaint immediately, you can tell a relevant person about what happened. Do the following:

1. **Identify the person to whom you should complain** (see 'Who to Complain to' below) and go to the person's office.
2. **Explain what happened.** Describe exactly who did what and when and what the consequences were to you.
3. **Ask for what you want.** Tell them what you want them to do about the complaint.

The main advantage of making a verbal complaint is that action may be taken immediately and the issue may be resolved without further action. However, it does not leave a record of what happened or how it was resolved. If you make a verbal complaint and are not satisfied with the response, you can always take further action, including making a complaint in writing. If you are very angry or upset, you may want to get advice or calm down before complaining.

### Making a Written Complaint

To make a written complaint, the following process is recommended:

1. **Document what happened and gather evidence:** Use the form for documenting rights violations (see page 14) to record all the details of what happened – who, where, when, what, why and the consequences.

2. **Get advice:** Contact your network, a human rights organization, or a lawyer to discuss what happened and get their advice and find out if they can support you to make a complaint. If you go elsewhere for advice, you should still keep your network informed of what you are doing so they can support you. You can also find out from them if other people in the network have had the same experience and may want to join in your complaint.

3. **Identify the person to whom you will address your complaint:** See 'Who to Complain to' below. You may also want to get additional information from the administration of the facility, such as whether or not they have a complaint box, how they will handle your complaint, how you will get a response, and how long it will take – this will let you know when you should follow up if you have not got a response.

4. **Write your complaint letter:** Your letter should have three main parts:

- A detailed factual statement about what happened. This should be as accurate as possible with no feelings or opinions included. Include dates and the names of the people involved.
- An explanation of your opinions and feelings about what happened, and specifically, what hurt and damage you experienced.
- A statement about what you want to have happen next and what solutions or remedies you want.

Also include your contact information or tell them to respond to you through your network and provide the network's contact information. If you will get assistance from your network to follow up the complaint, tell them this in your letter.

You may also want to include the following:

- The laws, codes of practice and/or human rights that the person broke, if you know them.
- What you will do if the issue is not addressed.
- When you will follow up.

5. **Make copies:** Keep a copy of your letter and give a copy to your network.
6. **Deliver the complaint letter, register it and write down the registration number:** You can put your complaint letter in a complaint box. However, you will have no record of having delivered it. Therefore, it is recommended that you deliver it to the facility's administrative office and ask them to officially record or register the letter. Get the registration number and write it down for your records. Ask them how long it will take to get a response.
7. **Follow up:** If you have not heard back from the health facility by the time they said they would respond (or within what you think is a reasonable time), follow up with them or ask your network to do so.

If you need help writing the complaint, contact your network. If you want your network to complain on your behalf or to follow up on your complaint with the health facility, discuss it with them.

A group of users can also work with their network to file a joint complaint that combines their issues. The network can act on the group's behalf.

## Who to Complain to

The person you should complain to will depend on the type of facility and the person who committed the rights violation. Use these general guidelines:

### For violations at a health post or clinic:

- Complain to the officer in-charge of the facility.
- If the violation was committed by the officer in-charge, complain to the Administration Office of the District Health Office or Provincial Health Department.

### For violations at a hospital:

- Complain to the Administration Office of the hospital.
- Complain to the Hospital Management Committee.
- If the facility is run by the Department of Health, complain to the Department of Health.

### Possible solutions if you complain to the health facility:

- The facility may commit to changing the policy or behaviour or take action to fix the problem. For example, if you complain about misinformation, they may train the staff.
- They may apologize.
- They may discipline the health care worker(s) or refer them for departmental action (e.g. demotion, termination, or transfer).
- They may give you compensation for administrative mistakes, for example, for fees wrongly charged.
- They may decide to complain to the Medical, Nursing or Midwifery Council and request that they remove the licence of the doctor, nurse or health worker (though this is unlikely).

### Why you may want to make a complaint to the health facility:

- You may feel satisfied that you took action against poor treatment.
- If they respond, it may be possible to reach a solution without a long and complicated process.
- It doesn't cost anything.
- It may open the door to working with the health sector more.
- Other organizations and interest groups who can pressure them to improve service delivery such as the media or the Cambodian Human Rights Committee may get to know about your complaint.
- It may encourage other people affected by HIV to take action.

### Things to think about before making a complaint:

- The facility may ignore the complaint and do nothing.
- You may need to complain more than once.
- The staff may blame you for the problem.
- You are not likely to receive compensation.
- You may not be satisfied with the outcome or feel that justice has not been done.
- The situation may not change at all.
- Your complaint may make the situation worse for you and you may face additional rights violations from the health workers if they are angry.
- Other people may find out your personal information if confidentiality is not kept.

## **Complaining to the Medical Council, the Nursing Council or Midwifery Council**

The Cambodian Medical Council has the responsibility to make sure that doctors treat people properly. The Cambodian Nursing Council has this responsibility for nurses and the Midwifery Council has it for midwives. Doctors, nurses and midwives have codes of ethics that they are required to follow. These agencies take complaints from the public when health workers violate the rights of their clients and patients.

### **How to make a complaint to the Medical or Nursing or Midwifery Council**

- 1. Document what happened and gather evidence:** Use the form for documenting rights violations (see page 14) to record all the details of what happened – who, where, when, what, why and the consequences. Gather any evidence.
- 2. Get advice:** Contact your network, a human rights organization or a lawyer to discuss what happened, get their advice, and find out if they can support you to make a complaint.
- 3. Inform your network:** If you did not go to your network for advice, keep your network informed of what you are doing so they can support you. You can also find out from them if other people affected by HIV have had the same experience and may want to join in your complaint.
- 4. Write your complaint.** If you need help writing the complaint, get help from your network or a lawyer. Include copies of any evidence. See Step 4 under ‘Making a Written Complaint’ for information about how to write the letter.
- 5. Make copies.** Keep a copy of the letter and give a copy to the network.
- 6. Deliver the complaint to the Council and register it with them or send it by registered mail.** Find out when and how you will get a response. Write down the registration number.

- 7. Follow up:** If you do not hear back from the Council by the time they said they would respond, follow up with them or ask your network to do so.

*Note: A group of patients can also file a complaint that combines their issues.*

For complaints about doctors, send the letter to your Provincial Medical Council. They will forward the complaint to the Regional Medical Council for investigation. If they find it justified, they will recommend actions to be taken.

### **Possible solutions if you complain to the Medical, Nursing or Midwifery Councils:**

- The health worker may be warned or cautioned.
- The health worker may be reprimanded and record it in their file.
- The health worker may not be allowed to practice for a period of time not longer than three years.
- The health worker may be permanently prohibited from certain functions of their work.
- The health worker’s registration to practise may be taken away for three years or longer.

If you are dissatisfied with the decision of the Council on your case, you can appeal to the Ministry of Health.

### **Why you may want to make a complaint to the Medical, Nursing and Midwifery Councils:**

- It is not expensive to do.
- If the health worker’s registration is revoked, it will protect others.
- If the Council is responsive, it could make other health workers and the Ministry of Health pay attention.
- A positive result sets a precedent (i.e. an example or standard).
- If action is taken, it could cause others, such as the Ministry of Health, to address the issues of HIV-affected people in the health system.

### **Things to think about before filing a complaint with the Medical, Nursing or Midwifery Council**

- The Council may take no action or may not act quickly.
- You may not get the result you want and may feel dissatisfied.
- You will not receive compensation.
- If the doctor or other health worker's registration is revoked, it may cause a backlash against you if you live in a small community.

Until now, these councils have not been very active in protecting patients and clients. For example, the Medical Council reports that it has not received many complaints. For those they have received, they have only warned and corrected the doctor. They have not suspended or deregistered any doctors, but they have advised the Ministry of Health to close some clinics. All of these Councils are, however, working to improve their performance in this area.

### **Contact information:**

#### **National Medical Council of Cambodia**

Address: University of Health Sciences, Room 203, Building N

73 Monivong Boulevard, Sangkat Srahchak, Khan Dounpenh, Phnom Penh

Phone: (+855) 023 900 009, 089 808 806, 012 359 005

Email: [medicalcouncilofcambodia@gmail.com](mailto:medicalcouncilofcambodia@gmail.com)

Website: <http://www.mcc.org.kh/ws/index.php?lan=kh>

Contact information for the Provincial Medical Councils is available at:

[http://www.mcc.org.kh/ws/article.php?lan=en&point=about\\_contact](http://www.mcc.org.kh/ws/article.php?lan=en&point=about_contact)

#### **Cambodia Council of Nurses**

Tel: (+855) 077 616196

Address: University of Health Sciences, Room 203, Building N

73 Monivong Boulevard, Snagkoet Srahchak, Khan Dounpenh, Phnom Penh

Phone: (+855) 077 616 196

Email: [ccambodiancouncil@gmail.com](mailto:ccambodiancouncil@gmail.com)

Website: <https://sites.google.com/site/cambodianccn/>

#### **Cambodian Midwives Council**

# 151-153, Kampuchea Krom Blvd., Phnom Penh

Mobile: (+855) 012 735 251, 012 940 552

Phone: (+855) 023 990 383

Fax: (+855) 023 884 909

E-mail: [info.cmccambodia@gmail.com](mailto:info.cmccambodia@gmail.com)

Website: [www.cmidwivesc.org](http://www.cmidwivesc.org)

## ▶ HANDOUT 3: KESOR AND PUNTHEA

Two women who work in local bars went separately to the Wat Phnom Health Centre to get checked for STIs. When the first one, Kesor, went to the clinic, the nurse gave her a disgusted look and said, "What? You again?! I know what you are up to and why you are coming here all the time! You should be ashamed of yourself! Why are you here this time? Same-same?" She asked her to take seat and pointed to a seat in the corner away from other people.

Kesor noticed that other people who came to the clinic after she did were called to see the doctor before her. When she complained, she was told to keep quiet if she wanted to be seen at all. When she got to see the doctor, he asked her questions like, "How many sex partners have you had since the last time you came here?" and "What kind of sex did you have with them?" Kesor was furious but said nothing because she wanted to get the test she came for.

Punthea also went to the Wat Phnom Health Centre to get checked because she wants to get pregnant. The nurse saw in her file that she was HIV-positive and told her to sit to the side of the room by herself. She too was

kept waiting as many other patients came and went. When she finally saw the doctor and told him why she was there, he said, "How can you be so irresponsible? How can you have a child when you know you will die and leave it an orphan?" and "Do you think that 'women like you' should have children? What kind of example are you going to be to them? You should be ashamed of yourself!" Punthea knew her rights and was so angry she could hardly see. She told the doctor that he didn't know what he was talking about and left, swearing never to go back.

One day Kesor and Punthea got together and Kesor told Punthea her story, and then Punthea told hers. They decided they had enough of being treated with such disrespect. After getting some advice from their network about what they could do, they went to the Justice Service Center at the district and requested mediation.

The Justice Service Center staff met with Dr. Soth, the officer in-charge, and the staff of the clinic, the two nurses, Srey and Vanna. They agreed to mediation. Now you are all at the Service Center.

## ▶ HANDOUT 4: MEDIATION

### What is mediation?

Mediation is a way to solve disputes without going to court. In mediation, the parties who are in a dispute voluntarily agree to have a neutral third party, the mediator(s), take them through a process to help them to find a solution on which they both agree. The mediators must remain neutral and supportive. They cannot make or impose a decision or solution. The process does not identify who is at fault or to blame. It only finds a solution.

### Steps to take a case to mediation:

#### Before deciding what to do about your case:

1. Document the violation and gather evidence of what happened.
2. Get advice from your network, a human rights organization or a lawyer about your case and find out if they can support you to seek justice if you need assistance.
3. Inform your network of what you are doing so they can support you. You can also find out from them if other people affected by HIV are having the same experience and may want to join in your case.

#### If you decide to take your case to mediation:

1. Go to the Justice Service Center (also called **Maison de la Justice**) at district, municipal or khan level or to an NGO that provides mediation services.
2. Request mediation and register your case with the Justice Service Center or the NGO.
3. Listen to the explanation of how the process will work and decide if you agree to use mediation.
4. The person or group you are in a dispute with will also be contacted. The process will be explained to them as well. If they agree to use mediation, your case will be mediated.

**NOTE:** The graphic below is from the Alternative Dispute Resolution Tool developed by ADHOC. This is the type of graphic I was envisioning could be useful in the Participant's Handbook.



#### During the mediation process, you will:

1. Inform the mediators if you want the process to be done in private and kept confidential.
2. Make and agree to the ground rules together with the other party.
3. Explain your interests, needs and concerns to the other party and listen to the other party explain their interests, needs and concerns.
4. Work with the mediators to come up with and discuss options for a solution while keeping respect for each other.
5. Continue discussing until you both agree to a solution.

#### After you agree to a solution:

1. The terms of the agreement will be written down and thumb printed by both of you and the mediators.
2. The agreement will be kept at the Justice Service Center or NGO office.
3. The mediators will follow up to make sure that the agreement is carried out by the date agreed. If not, they will refer the case to court.

## **Possible solutions if you take your case to mediation:**

### **Some common positive outcomes in mediation are:**

- Agreement to change their behaviour or practice or to pay for something (such as repairs, child support or education).
- Compensation for loss or damages.
- Division of property or land.

Mediation allows for creative solutions, so there are many possibilities. There are no fines in mediation in Cambodia and no one is found guilty or innocent.

### **Why you may want to take your case to mediation:**

- It is free.
- It can be quick.
- It is easily available in communities.
- It is less complex than other methods of solving disputes.
- Both sides of the dispute should be happy with the result. It is 'win-win.'
- It can result in creative solutions.

- It can find practical solutions that meet the parties' interests and needs.
- It can help to preserve relationships in a small community.
- It is confidential, so there is less possibility of your case being exposed to others.
- It may result in solutions that will help to change the system for the better.

### **Things to think about before deciding to use mediation:**

- It does not decide who is guilty or to blame, so it is not appropriate if you want the other party to be found guilty.
- If you feel less powerful than the person you are in a dispute with, you will need to stand up for what you want and insist on a solution that is a 'win' for you.
- If the person you are in a dispute with is known to be violent, consider if you will be safe if you take your dispute to mediation or if the other person might turn to violence or seek payback.
- Although it should be confidential, there is a possibility that personal information will become known, which may result in stigma and discrimination.

## ▶ HANDOUT 5: THE CAMBODIAN HUMAN RIGHTS COMMITTEE

The main responsibility of the Cambodian Human Rights Committee (CHRC, or the 'Committee') is to protect, develop and promote human rights and democracy in Cambodia.

### **To do this, the Committee:**

- Receives complaints about violations of human rights and investigates them.
- Conducts its own investigations.
- Educates people, especially young people and factory workers, about their rights and Cambodian laws.
- Writes the government's Universal Periodic Review reports on how it is implementing the international human rights treaties it has signed.
- Attends meetings of the Council of Ministers to advise on human rights issues.

### **The Committee has the power to:**

- Document the cases they investigate and share those reports with all concerned authorities and the public.
- In cases of rights violations by governmental authorities, recommend that the concerned authority take action to address the violation.

To date, they have not shared their reports with the public.

### **Steps for making a complaint to the Cambodian Human Rights Committee**

1. Document the violation and gather evidence of what happened.
2. Get advice from your network, a human rights organization or a lawyer about your case and find out if they can support you to seek justice if you need assistance.

3. Inform your network of what you are doing so they can support you. You can also find out from them if other people affected by HIV are having the same experience and may want to join in your complaint.
4. Contact the CHRC in person or by phone at (+855) 023 882 065 to discuss your case and get advice on what to do. Your network or another representative can also do this for you.
5. Fill out the Cambodian Human Right Committee Complaint Form. This form is available on their website at <http://chrc.gov.kh/lawsuit/>, make a photocopy the form (see the next handout) or get a copy of the form at their office in Phnom Penh. **Note the complaint must be made in writing.**
6. Make and keep a copy for yourself and one for your network.
7. If not submitting the complaint on line, deliver it in person, fax it or send it by registered mail.

### **Complaints should be addressed to the Chair of the CHCR. They must include the following information:**

- The specific objective of the complaint
- A list of the attached evidence, documents or references (if any)
- Who the complainant is (whether an individual or group)
- A clear explanation of the rights violation, including the person who committed it, who was violated and exactly what happened.<sup>2</sup>

After they receive your case, the CHRC will decide if it could be a rights violation or not. If they decide it may be a rights violation, they will investigate it. There is no time limit for when you can file a case with the CHRC about a rights violation.

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<sup>2</sup> We suggest all information on the form to document rights violations provided in Session 2.2 be included.

## Possible solutions if you file a complaint with the Human Rights Committee:

### After the investigation, if your rights have been violated, the Committee, can:

- Request that the responsible governmental authority take action.
- Advise you to seek justice in another way, for example, through mediation or the courts.

The Committee will follow up on any recommendations with the government agency to find out what they have done. If they have not taken action, they can take further steps to push for action.

### Why you may want to make a complaint to the CHRC:

- It is free.
- It is relatively easy to do.
- Government may take the request to take action from the CHRC seriously.
- The government authority may take action against the person or body who violated your rights if requested by the Committee.
- It can feel empowering to take action.

### Things to think about before making a complaint to the CHRC:

- The Committee may not agree that it is a rights violation after analyse the complaint.
- The government may not take action even when requested by the Committee.

- Your personal information may be exposed, resulting in further stigma and discrimination (Note that this should not be the case – they should protect your identity if you ask them to).
- The Committee may only be able to refer you to other ways of seeking justice, like mediation or going to court.

Your network can also work with the Committee. You can have meetings with them to tell them about the rights violations your community experiences in general. You can do this even if you have not filed a complaint with them. You can request that they help you to advocate for action to prevent the violation of your rights at health care settings.

### How to contact the office of the CHRC:

Cambodian Human Rights Committee  
No. 3, St. VI. 13 Toul Kork Village,  
Sangkat Toul Sangke, Khan Russey Keo, Phnom Penh  
Phone: (+855) 023 882 065  
Fax: (+855) 023 882 065  
c/o Email: [yoeurngnann@gmail.com](mailto:yoeurngnann@gmail.com)  
Website: [www.chrc.gov.kh](http://www.chrc.gov.kh)

# ▶ HANDOUT 6: CAMBODIAN HUMAN RIGHTS COMMITTEE INDIVIDUAL AND GROUP COMPLAINT FORMS

## ព្រះរាជាណាចក្រកម្ពុជា ជាតិ សាសនា ព្រះមហាក្សត្រ

### ពាក្យបណ្តឹង ( ទោល )

ខ្ញុំបាទ/នាងខ្ញុំឈ្មោះ:.....ភេទ.....អាយុ.....ឆ្នាំ  
បច្ចុប្បន្នរស់នៅភូមិ.....ឃុំ.....ស្រុក.....ខេត្ត.....។

#### សូមគោរពជូន

ឯកឧត្តម.....ប្រធាន/គូសាទី ( ឈ្មោះស្ថាប័ន ).....

សូមទានមេត្តាជ្រាប

កម្មវត្ថុ: សំណើសុំផ្តឹង/អន្តរាគមន៍ករណី ( ប្រភេទ ).....ដែលបានកើតឡើង  
នៅថ្ងៃទី.....ខែ.....ឆ្នាំ..... នៅភូមិ.....ឃុំ.....  
ស្រុក.....ខេត្ត.....។

យោង:.....( បើមានចាំបាច់ ).....។

តបតាមកម្មវត្ថុ និងយោងខាងលើ ខ្ញុំបាទ/នាងខ្ញុំ មានកិត្តិយស សូមជម្រាបជូនឯកឧត្តមមេត្តាជ្រាប  
ថា.....( សូមបរិយាយពីអង្គហេតុដែលកើតឡើងឱ្យច្បាស់លាស់  
ដូចជា ឈ្មោះអ្នកប្រព្រឹត្ត ភេទ អាយុ មុខងារ/ឋានៈ លំនៅដ្ឋាន កន្លែង ពេលវេលាកើតហេតុ កើតយ៉ាង  
ដូចម្តេច ? ).....។

អាស្រ័យហេតុដូចបានជម្រាបជូនខាងលើ ខ្ញុំបាទ/នាងខ្ញុំ សុំផ្តឹងឈ្មោះ:...../  
សូមឯកឧត្តមមេត្តាជួយអន្តរាគមន៍.....( លើកពីសំណូមពរចង់បានរបស់យើង )  
.....ដោយអនុគ្រោះ។

សូមឯកឧត្តមមេត្តាទទួលការគោរពដ៏ខ្ពង់ខ្ពស់បំផុត អំពីខ្ញុំបាទ/នាងខ្ញុំ។  
ធ្វើនៅ.....ថ្ងៃទី.....ខែ.....ឆ្នាំ.....

ហត្ថលេខា/ស្នាមមេដៃអ្នកប្តឹង  
( ឈ្មោះ )

- សូមភ្ជាប់មកជាមួយ ( បើមាន )
- ឯកសារ/វត្ថុតាងពាក់ព័ន្ធនានា
- ទំនាក់ទំនងលេខទូរស័ព្ទ

.....

**ព្រះរាជាណាចក្រកម្ពុជា**  
**ជាតិ សាសនា ព្រះមហាក្សត្រ**

**ពាក្យបណ្តឹង ( រួម )**

យើងខ្ញុំទាំងអស់គ្នាជាប្រជាពលរដ្ឋ.....តំណាងប្រជាពលរដ្ឋរងគ្រោះបច្ចុប្បន្ន  
រស់នៅភូមិ.....ឃុំ.....ស្រុក.....ខេត្ត.....។

**សូមគោរពជូន**

**ឯកឧត្តម**.....**ប្រធាន/តួនាទី ( ឈ្មោះស្ថាប័ន )**.....

សូមទានមេត្តាជ្រាប

**កម្មវត្ថុ:** សំណើសុំប្តឹង/អន្តរាគមន៍ករណី(ប្រភេទ).....ដែលបានកើតឡើង  
នៅថ្ងៃទី.....ខែ.....ឆ្នាំ..... នៅភូមិ.....ឃុំ.....  
ស្រុក.....ខេត្ត.....។

**យោង:**.....(បើមានចាំបាច់).....។

តបតាមកម្មវត្ថុ និងយោងខាងលើ ខ្ញុំបាទ/នាងខ្ញុំ មានកិត្តិយស សូមជម្រាបជូនឯកឧត្តមមេត្តាជ្រាប  
ថា.....(សូមបរិយាយពីអង្គហេតុដែលកើតឡើងឱ្យច្បាស់លាស់  
ដូចជា ឈ្មោះអ្នកប្រព្រឹត្ត ភេទ អាយុ មុខងារ/ឋានៈ លំនៅដ្ឋាន កន្លែង ពេលវេលាកើតហេតុ កើតយ៉ាង  
ដូចម្តេច ? ).....។

អាស្រ័យហេតុដូចបានជម្រាបជូនខាងលើ ខ្ញុំបាទ/នាងខ្ញុំ សុំប្តឹងឈ្មោះ...../  
សូមឯកឧត្តមមេត្តាជួយអន្តរាគមន៍.....(លើកពីសំណូមពរចង់បានរបស់យើង)  
.....ដោយអនុគ្រោះ។

សូមឯកឧត្តមមេត្តាទទួលការគោរពដ៏ខ្ពង់ខ្ពស់បំផុត អំពីយើងខ្ញុំ។

ធ្វើនៅ.....ថ្ងៃទី.....ខែ.....ឆ្នាំ.....

ស្នាមមេដៃអ្នកតំណាង

សូមភ្ជាប់មកជាមួយ (បើមាន)

( ឈ្មោះ )

- ឯកសារ/វត្ថុតាងពាក់ព័ន្ធនានា
- ទំនាក់ទំនងលេខទូរស័ព្ទ

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# ▶ WORKSHEET 3: WOMEN FIGHT BACK AGAINST FORCED STERILIZATION

**Instructions:** Read the story out loud and answer the questions.

This story takes place in a country in Southern Africa called Namibia. In 2006, Hilma Nendongo went to a hospital to deliver her baby by Caesarean section. The procedure went well and Hilma gave birth to a healthy baby boy. Some months later, when she went to a family planning clinic, the nurse told her that she did not need family planning because she had been sterilized. That was how she found out that while she was at the hospital giving birth, the doctor had sterilized her without her knowledge. The reason? Hilma is HIV-positive and the hospital staff had decided she should not have any more children. Hilma belongs to a support group for women living with HIV. In her group, she found out that other women had had the same experience. Some of them decided to take action.

In October 2009, a group of HIV-positive women who were sterilized without their consent sued the Namibian government for about US\$167,000. With support from the legal assistance centre and the Southern African Litigation Centre, the women claimed that this procedure was against the law and that it violated their rights to dignity, to found a family, and to be free from cruel, inhuman and degrading treatment. The women also argued that it was done to them because of their HIV status, which violated their right to be free from discrimination. The Namibian government argued that there was no force or coercion in these cases because the women had signed consent forms for the procedure.

In July 2012, the High Court of Namibia ruled that all three women were indeed sterilized without their informed

consent in violation of the law. Although the justices rejected the discrimination claim, the ruling was a major victory for victims of this illegal practice.

The government then appealed the High Court's decision. The argument was that the women had given their informed consent to be sterilized. All three women had signed consent forms, but they argued that their signatures were coerced and that they were not provided adequate information. The government argued that the only question was whether the women were aware that sterilization leads to sterility (or not being able to get pregnant).

In November 2014, the Supreme Court rightly rejected the government's appeal and upheld the original decision that the women's sterilizations violated their rights as guaranteed by the constitution. The Supreme Court emphasized that the decision of whether or not to be sterilized is of great personal importance and must be made with informed consent, not just written consent. They said that women must understand and appreciate the risks, consequences, and alternatives. They also said that consent for sterilization cannot be obtained when women are in labour or in pain. Finally, they emphasized that the decision is the woman's only and not the doctors'. The decision was a welcome victory.

More and more women living with HIV are starting to fight back against such violations of their rights. Groups of women have also brought cases before the courts in South Africa and in Kenya and a woman in Chile is pursuing a case with the regional human rights institute.

## Questions:

1. How does this story make you feel?
2. What happened to Hilma?
3. How did she find other women who had had the same experience?
4. What did the women who had been sterilized do?
5. What did the High Court decide in the end?
6. How many years was it between Hilma's sterilization and the final court decision?
7. Why do you think these women took their case to court?
8. What is your opinion about taking such cases to court?  
Why?

## References

- Chingore-Munazvo, Nyasha, (2014). A Win for Victims of Forced Sterilization in Namibia, 17 December 2014, Open Society Foundations. Available at: <http://www.opensocietyfoundations.org/voices/win-victims-forced-sterilization-namibia> [accessed 28 February 2015].
- Guterman, Lydia, (2010). Women in Namibia Fight Back Against Forced Sterilization, 22 November 2010, Open Society Foundations. Available at: <http://www.opensocietyfoundations.org/voices/women-namibia-fight-back-against-forced-sterilization> [accessed 28 February 2015].

# ▶ HANDOUT 7: TAKING A CASE TO COURT AND GETTING LEGAL AID

If you are thinking of taking a case to court, first do the following as soon as possible after the violation you experienced:

1. **Document what happened and gather evidence:** Document the violation and gather evidence of what happened. Also document the other ways you have tried to resolve the case.
2. **Inform your network:** Talk to your network about what you want to do so they can support you. You can also find out from them if other people affected by HIV are having the same experience and may want to join in your complaint.
3. **Get legal advice:** Contact a legal services organization, the Bar Association or a lawyer to discuss what happened and get their advice. They can discuss the case, clarify the details, assess the circumstances and advise on issues including:
  - Whether it is possible to bring the case to court.
  - What the realistic chances of success are.
  - How the case could be further strengthened, for example, by gathering more evidence.
  - How long the process might take.
  - What it will cost and if they can help you with your case and provide you with a lawyer.
  - By when you need to take action.

**If you want to get compensation** for the harm done to you, your lawyer must file a case with the municipal or provincial court within 5 years of the harm being caused. However, you should not delay getting in touch with a lawyer as soon as possible. Compensation may be awarded in both civil and criminal cases.

**If you want the health care worker to be punished** for their actions, you (or your lawyer) can a) request that the health care worker be punished in a civil case; or b) file a criminal case with the court under the Articles 207, 236, 265, 314 of the Criminal Code and the court will order the police investigate or c) report the case directly to the police.

**Going directly to the police:** Most cases to do with health services will not involve the police, unless the case involved a serious crime such as rape, assault, including forced abortions or sterilization, or one that resulted in a death. To file directly with the police, report the crime at the nearest police office. The police will investigate. If you have a case, they will have a government lawyer take it to the provincial court. Your network may be able to help you approach the police.

*Note that you can file both civil and criminal cases for the same rights violation at the same time.*

4. **Tell your lawyers if you want your identity to be kept secret.** It is important to do this immediately.

**If you decide to take your case to court:**

1. **Follow the lawyer's advice.** This may include: gathering more evidence (e.g. you may need to have further health check-ups), giving evidence, and being cross-examined. The lawyer will look at cases similar to yours that have been tried before, get medical experts, and do other needed tasks.
2. **The lawyer will file the case with the appropriate authority.**

3. **The court will hear both parties.** Both sides will have the chance to present their evidence, and to cross-examine or ask questions to the witnesses. You will most likely be called to give testimony – that is to tell your story to the court.
4. **The judge makes a decision** on the case.
5. After the case is decided, **the losing side can appeal** the verdict.

## Possible solutions if you take your case to court:

### If the case is decided in your favour, the following may be the results:

- You may be given compensation.
- The health care worker may be fined.
- The health care worker may be imprisoned.
- The health care worker may have action taken against them by the Ministry of Health; for example, they may be suspended, demoted, dismissed or transferred.
- The health care worker may not be allowed to provide health care for a period of time.

### Why you may want to take your case to court?

- You may get compensation.
- It may change the way services are delivered by sending a message to health care workers.
- You may feel satisfied that you got justice.
- You may feel empowered and good about yourself because you took action.
- The case can set a precedent.
- Your case may be an example for other people in your community.

### Things to think about before deciding to take a case to court:

- It can take a long time. It may take more than ten years to get a final outcome from the Supreme Court if there are appeals.
- It is expensive if you do not get legal aid. Some legal aid does not cover all of the costs (such as court fees and transportation for filing and following up a case).

Make sure you understand exactly what costs are covered if you get legal aid.

- The process may traumatize you again, for example, when you give testimony.
- The other side will try to prove that what you are saying is not true. They may try to blame you for what they did or say that you agreed. This can be very painful.
- Many medical cases are settled out of court through unofficial negotiation between the two parties. This usually results in compensation being paid to the victim. An example of a case that was settled in favour of victims in Cambodia was the case in Roka in 2015.
- If the case is not decided in favour of your side, you may feel dissatisfied or worse.
- Although your HIV status must legally be kept confidential in court cases, it is still possible that your private information may become more widely known.

### Right to privacy in court cases

The justice system must maintain the privacy of people living with HIV who are involved in court cases. Privacy is to be maintained from the time the case is registered in the police office or in a law court until it is completed and beyond. This means that the personal information of a person living with HIV must be kept confidential throughout the legal process and afterwards. People who are worried about their privacy should immediately inform the authorities, their lawyer or others assisting them.

### Legal aid

In Cambodia, legal aid is available from both governmental and non-governmental sources. Governmental legal aid is only for defendants in serious criminal cases; it is not available for victims in civil cases. If you file a criminal case, the state will assign a prosecutor to your case, but you may need legal aid to cover other costs. Non-governmental legal aid is provided by the Bar Association and by NGOs. Non-governmental legal aid is available for both criminal and civil cases and for defendants and victims.

### Non-governmental legal aid

**The Bar Association of the Kingdom of Cambodia** is the professional organization of lawyers. It also provides

legal aid services to the poor. To qualify for legal aid from the Bar Association, you must have an identification card that identifies you as poor or you must get a letter from your Village or Commune Head certifying that you are poor. Their legal aid only covers legal assistance, such as legal advice and counselling and other legal services such as preparing correspondence, pleadings, preparing legal documents and attending proceedings in court or offices for the person who receives it. It does not cover the cost of filing the case or any other costs, like transportation to the court. To get legal aid from the Bar Association, contact the Legal Aid Department at their nearest office. They have offices in every province.

**NGOs that provide legal aid** in Cambodia, provide it to anyone who requests it without verifying their income. Their legal aid is very comprehensive and includes legal advice and counselling and other legal services such as preparing correspondence, pleadings, preparing legal documents and attending proceedings in court or offices for the person who receives it as well as the cost of transportation to court, lodging in a safe house, and food. To be sure of what they will cover, ask the legal aid provider what other costs you may face, if any.

**The main NGOs that focus on legal aid are:** Legal Aid of Cambodia (LAC); Cambodia League for the Promotion and Defence of Human Rights (LICADHO); the Cambodian Human Rights and Development Association (ADHOC); and the Cambodia Center for Human Rights (CCHR). Some of them have a national-level network covering many provinces.

Some NGOs provide legal aid to specific groups, such as women, for example, Cambodia Action for Change (for female sex workers, homeless women, female factory workers and the most vulnerable women), Legal Support for Women and Children, Cambodian Women's Crisis Center (for intimate partner violence and trafficking). Women's Network for Unity provides legal aid to entertainment workers of all genders. Some other NGOs, such as Cambodia Human Rights Action Committee (CHRAC) do not have legal aid lawyers on staff, but will pay for the cost of the lawyer among other expenses.

Some networks of people living with HIV can also help their members to access legal aid.

## Contact Information for Legal Aid Organizations:

### Legal Aid of Cambodia (LAC)

#57-59 St. 516, Toul Sangke, Russey Keo, Phnom Penh

Phone: (+855) 023 864 201/202, 012 385 155,

092 982 028, 012 385 155

Fax: (+855) 023 864 203

E-mail: [reception@lac.org.kh](mailto:reception@lac.org.kh); [lacadmin@online.com.kh](mailto:lacadmin@online.com.kh)

Website: [www.lac.org.kh](http://www.lac.org.kh)

### LAC Branches:

- **Battambang Province:** #463, Group 12, Kamkor Village, Svaypor Commune, Battambang Town, Battambang Province  
Phone: (+855) 012 284 047
- **Siem Reap Province:** #0702, Group 11, Phoum Banteay Chas, Sangkat Slor Kram, Siem Reap Town, Siem Reap Province  
Phone: (+855) 012 469 694
- **Kampong Thom Province:** Phum Kdey, Sangkat Prey Tahou, Steung Sen Town, Kampong Thom Province  
Phone: (+855) 081 597 308

### Cambodia Human Rights Action Committee (CHRAC)

#9Eo, Street 330, Sangkat Boeung Kengkang III, Khan Chamkarmorn, Phnom Penh

Phone: (+855) 023 301415, 023 305 609

Fax: (+855) 023 218 759

Email: [chrac@forum.org.kh](mailto:chrac@forum.org.kh), [chracsecretariat@yahoo.com](mailto:chracsecretariat@yahoo.com)

Website: <http://www.chrac.org/kh/index.php>

### Cambodia League for the Promotion and Defence of Human Rights (LICADHO)

#16 St. 99, Boeung Trabek, Phnom Penh

P.O. Box 499, Phnom Penh

Phone: (+855) 023 727 102 or 023 216 602

Fax: (+855) 023 727 102 or 023 217 626

Email: [contact@licadho-cambodia.org](mailto:contact@licadho-cambodia.org)

Website: <http://www.licadho-cambodia.org/>

### LICADHO Branches:

- **Banteay Meanchey:** Village 3, Preah Punlea Commune, Serei Saophoan Municipality, Banteay Meanchey Province  
Phone: (+855) 054 958 861
- **Battambang:** #312, Group 21, Kampong Krabei Village, Svay Por Commune, Battambang Municipality, Battambang Province  
Phone: (+855) 053 952 828
- **Kampong Cham:** Group 4, Village 6, Veal Vong Commune, Kampong Cham Municipality, Kampong Cham Province  
Phone: (+855) 042 941 464
- **Kampong Chhnang:** Street #2, Village 2, Khsam Commune, Kampong Chhnang Municipality, Kampong Chhnang province.  
Phone: (+855) 026 988 637
- **Kampong Speu:** Lot B4, National Road 4, Peanichakam Village, Roka Thom Commune, Chbar Mon Municipality, Kampong Speu province  
Phone: (+855) 025 987 220
- **Kampong Thom:** #254, Group 44, Kampong Thom Village, Kampong Rotes Commune, Stueng Saen Municipality, Kampong Thom Province  
Phone: (+855) 062 961 292
- **Kampot:** #78, Muoy Ussphea Village, Kampong Kandal Commune, Kampot Municipality, Kampot Province  
Phone: (+855) 033 932 663
- **Koh Kong:** Village 2, Smach Meanchey Commune, Khemara Phoumin Municipality, Koh Kong Province  
Phone: (+855) 035 936 116
- **Pursat:** Morn Che Village, Prey Nhi Commune, Pursat Municipality, Pursat Province  
Phone: (+855) 052 951 496
- **Ratanak kiri:** #503, street Eo053, 7 Makara Village, Banlung Commune, Banlung Municipality, Ratanakiri Province  
Phone: (+855) 066 888 558
- **Siem Reap:** #459, Dok Por Village, Slarkram Commune, Siem Reap Municipality, Siem Reap Province  
Phone: (+855) 063 964 066
- **Sihanoukville:** Road Ek Reach, Bei Village, Pir Commune, Preah Sihanouk Municipality, Preah Sihanouk Province  
Phone: (+855) 034 933 716
- **Svay Rieng:** Rong Banle Village, Svay Rieng Commune, Svay Rieng Municipality, Svay Rieng Province  
Phone: (+855) 044 945 833

### The Cambodian Human Rights and Development Association (ADHOC)

No. 3, Street 158 (Oukghna Troeung Kang), Sangkat Boeung Raing, Khan Daun Penh, Phnom Penh  
P.O. Box: 1024, Phnom Penh  
Phone: (+855) 023 218 653, 023 990 544  
Fax: (+855) 023 217 229  
E-mail: [adhoc@forum.org.kh](mailto:adhoc@forum.org.kh)  
Website: <http://www.adhoc-cambodia.org/>

### The Cambodia Center for Human Rights (CCHR)

#798, St.99, Boeng Trabek, Chamkarmon, P.O.Box: 1506, Phnom Penh  
Phone: (+855) 023 726 901  
Hotline: (+855) 017 505 050  
Fax: (+855) 023 726 902  
Email : [info@cchrcambodia.org](mailto:info@cchrcambodia.org)  
Website: <http://cchrcambodia.org/index.php?lang=khm>

## ▶ WORKSHEET 4: WHAT SHOULD THEY DO?

**Instructions:** Read the case assigned to your group and answer the questions in the decision-making process on the next page to decide what the person should do to seek justice.

**Heng:** At the time of the first HIV test, I was not counselled, only informed that the routine tests would include HIV. I picked up the blood report from the laboratory myself. I did not understand what HIV was and was not sure what the test result meant. I decided to take my brother-in-law to my next appointment. The nurse told him I had HIV and she told him that if anybody shared food with me or touched me they would also get HIV. After that it became very difficult for me. **Heng has decided to take action. Help him decide what to do to get justice.**

**Mealea:** The doctor asked me, "Why do you want to have the baby when you're HIV-positive?" He said, "The baby will also be infected. You really should not have the baby!" Then he discussed it with my husband and asked him if he wanted the baby. My husband decided against it, so I had an abortion. **Mealea has decided to take action. Help her decide what to do to get justice.**

**Navi:** I was pregnant with twins when I went into labour prematurely and went to the hospital where I did not know any of the staff, but it was the closest to my house. The first thing they asked me was why I was having a baby when I knew I was HIV-positive. Then I was told to lay down with my feet up [in stirrups]. I was left alone for hours in labour like that, and nobody came to check on

me. The first baby came out and fell directly into the rubbish bin under my feet. I could not do anything because the second baby was coming out so quickly. When someone finally came to check on me, the first baby was all black and blue and dead. The second one was halfway out. They did not want to touch the baby because they did not want to touch my blood. I heard the second baby cry. He was a real person. But they took him away before I could see him properly. They put him on oxygen for five hours and then told me that he died. I never saw him except for five seconds. I was so sad because I think my babies would have lived if we had got proper treatment. But I didn't say anything because I didn't want to hear more harsh words directed at me. **Navi has decided to take action. Help her decide what to do to get justice.**

**Reasmey:** When I was admitted to a private hospital for surgery, they put me in the men's ward, even though they could see I was a transgender and I told them I wanted to be on the woman's ward. When the doctors realised I had HIV, they started asking me questions like "How did you get infected?" and "How do you have sex?" I waited seven days but I was not operated on. Then I was transferred to a government hospital where I waited another nine days. There, the bed was separate from other patients. On their rounds, the doctors didn't want to touch me. When I finally had the surgery, they charged me more because they said I had to pay for the cost of infection control. **Reasmey has decided to take action. Help her decide what to do to get justice.**

Name of the person in the case: \_\_\_\_\_

1. What outcome(s) do you want? List them:
2. What are the options for seeking justice in this case? List them in the boxes on the left. Then think about the pros and cons of each option. Think about which actions may give the outcomes you want.

Options	Positives/Advantages	Negatives/Disadvantages

3. Imagine you are the person in this case, what choices would you make? Why? You can choose more than one action. List them here.

# ▶ HANDOUT 8: PARTICIPATING IN THE MONITORING OF CAMBODIA'S IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS TREATIES

When a country signs an international human rights treaty, they agree to ensure that everyone in the country can enjoy the rights in that treaty. The UN has developed a system to monitor how countries are implementing the rights treaties that they have signed.

This is done in two ways: 1) Through the review process of a specific treaty; and 2) Through the Universal Periodic Review.

## PARTICIPATING IN THE MONITORING OF THE IMPLEMENTATION OF A SPECIFIC TREATY

Each treaty has a committee of independent experts that monitors its implementation. Most of the committees work in a similar way, although there may be small differences. The countries that have signed the treaty must report on their progress implementing the treaty in detail to those committees every 4 or 5 years. Other stakeholders, like the UN and NGOs or civil society, write alternative reports to provide the committees with more information on how the treaty is being implemented by the government.

After reviewing all the information, the committee holds a review session with representatives from the government to discuss the situation and how they can improve. Most committees also hear from NGO delegations and UN agencies at these review sessions. The committees then make what are called 'concluding observations' that:

- Acknowledge the positive steps taken by the government.

- Identify areas of concern.
- Make practical recommendations.

In their next report, the government must report back to the committee on those recommendations.

### How a network can become involved in reporting on a human rights treaty:

1. **Decide which specific treaties you are interested in reporting on.**
2. **Find out when the government's report is due and/or when it will be reviewed.** This information is available on the website of the Office of the High Commissioner for Human Rights. For most treaties, the government is supposed to submit its report 6–12 months before the meeting. Civil society reports can usually be submitted until the date of the session, but it is more effective if the report is submitted before that date. Be aware that Cambodia has submitted all of its reports late, except the Universal Periodic Review Report.
3. **Find out what the other civil society organizations are doing and who is working on the civil society report.** You can get this information from Cambodian Human Rights Action Committee or the United Nations Office of the High Commissioner for Human Rights.
4. **Decide if you want to include your issues in a joint report or if you want to write a separate report.** It is important to think about how best to get your issues noticed. If you do not have experience writing these reports or think your voice may be lost, it is

good to partner with the other organizations that are putting together the main civil society report, sometimes called a shadow report.

5. **Review the report submitted by the government**

**to see if it is accurate.** The government should submit its report about six months before the meeting at which the committee will review it. You can find the report on the Office of the High Commissioner for Human Rights (OHCHR) website <http://cambodia.ohchr.org/EN/PagesFiles/TreatyReportingIndex.htm#C2>

6. **Plan your participation in the whole process.** Note that you need to start discussions, data collection and working on the report together at least 6 months before the session when the treaty will be reviewed.

7. **Gather information.** Have consultations with your community on the issues. Identify and document rights abuses if you have not already done so. Review previous recommendations to identify what the government is supposed to be doing. Gather facts on what the government has done and what they have not done.

8. **Write the report.** Look at examples on the OHCHR website.

9. **Submit the report to OHCHR.**

10. **Decide if your organization wants to do a presentation.** During the review meeting, the government will present its report first. Then NGOs present theirs. It may be possible for a network member to go to the session and do a presentation. If you want to do this, you will need to obtain funding for it.

11. **Lobby the Committee members.** Find out who on the Committee is sympathetic to the issues of people affected by HIV and talk to them about the rights violations you have documented.

12. **Lobby the government representatives while you are at the Committee meeting.** Find out who is on the government team and who is the best person to lobby for your issues.

13. **After the session, advocate for and monitor the implementation of recommendations on your issues.** The Committee makes recommendations to the Government of Cambodia. It may or may not make recommendations on your issues. The recommendations may be for 'immediate action' or for 'follow up'. The government will respond to the recommendations. Networks can continue to remind the government of the recommendations and monitor what they are doing to address the issues. You can do this through the media or at meetings where the key government leaders are present.

14. **Plan for the next review. Keep in mind the next review.** You can submit another report in the next review – quoting the recommendations and what the government has done or has not done and telling the committee what you think it should recommend to the government.

For women's activists interested in CEDAW, contact the International Women's Rights Action Watch (IWRAP) to find out if they are providing any training for women. IWRAP works to build the capacity of women's organizations to use CEDAW in their work and to participate in the reporting and monitoring process. They can be reached at:

**International Women's Rights Action Watch Asia Pacific**

Address: 10-2, Jalan Bangsar Utama 9, 59000 Kuala Lumpur, Malaysia

Phone: (+60) 3-2282-2255; Fax: (+60) 3-2283-2552

E-mail: [iwraw-ap@iwraw-ap.org](mailto:iwraw-ap@iwraw-ap.org), [iwraw\\_ap@yahoo.com](mailto:iwraw_ap@yahoo.com)

Website: [www.iwraw-ap.org](http://www.iwraw-ap.org)

## PARTICIPATING IN THE UNIVERSAL PERIODIC REVIEW

The Universal Periodic Review (UPR) monitors the whole human rights situation of a country every four years. It is much broader than the reviews of specific treaties.

### To participate:

1. **Decide if your network wants to participate.**
2. **Contact the Cambodian Human Rights Action Committee (CHRAC),** which leads the NGO reporting process. Coordinate your work with them closely. Inform them of what you are doing and discuss with them when they should participate in what you are doing.
3. **Gather information.** Hold consultations with your community members. Document rights violations and collect information about their issues and recommendations.
4. **Write a report on all of your findings.**
5. **Hold a dissemination meeting.** Invite the Cambodian Human Rights Action Committee to your dissemination meeting and submit your report and recommendations to them.

The Cambodian Human Rights Action Committee will use the reports they receive from civil society to write and submit the alternative report. They will also be able to inform you about opportunities to participate in the actual session of the UN Human Rights Council when Cambodia's report is reviewed.

You should also participate in the government's preparations to write its report. Before writing the report for the Government, the Cambodian Human Rights Committee will hold discussions and dialogues with governmental institutions, national human rights institutions and with various civil society organizations including non-governmental organizations. Your network should be represented in their meetings with NGOs.

### Possible outcomes if you decide to participate in the reviews of human rights treaties and the UPR:

- The international committee may make recommendations to the government for changes that they need to make, such as changes to laws, policies and practices. They will also follow up on what

action has been taken.

- Investigations into abuses may be recommended and/or agreed to.
- The government may make commitments that you can follow up on.

### Why you may want to participate in these processes:

- It can result in national changes in laws, policies, and practices.
- It raises the issues to an international level.
- It provides an opportunity to engage with the government directly on your human rights issues.
- It provides an opportunity to involve the media and publicize your issues.
- If you get positive results, they can have wide implications and improve the situation for many people.

### Things to consider about participating in these processes:

- The process is so big, especially during the UPR, that your issues may not get the attention that they need and deserve.
- Your investment of time and effort may not pay off quickly.
- Your organization may not have the capacity to follow up on your issues and make the government implement the recommended changes.

More information on the role of NGOs in the work of specific committees can be found in Working with the United Nations Human Rights Programme: A Handbook for Civil Society available at: <http://www.ohchr.org/EN/AboutUs/CivilSociety/Pages/Handbook.aspx>

### Also see:

Participation in ICESCR and CEDAW Reporting Processes: Guidelines for Writing on Women's Economic, Social and Cultural Rights in Shadow/Alternative Reports (2010) written by International Women's Rights Action Watch Asia-Pacific and International Network for Economic, Social and Cultural Rights (ESCR-Net), available at: [http://www.escr-net.org/usr\\_doc/CEDAW\\_CESCR\\_reporting\\_guidelines\\_FINAL\\_Oct\\_6\\_2010.pdf](http://www.escr-net.org/usr_doc/CEDAW_CESCR_reporting_guidelines_FINAL_Oct_6_2010.pdf)

## ▶ HANDOUT 9: SOME WAYS TO ENGAGE WITH HEALTH CARE PROVIDERS

Some ways your networks can engage with the health care providers are:

**Citizen Report Cards:** Civil society organizations use surveys to gather information from users on the performance of health services. The results are written up in a report and publicized widely, including through the media, to produce public discussions about what citizens think and what health care providers should do.

**Community Scorecards:** Civil society organizations compile information about a particular health service from users and from health service providers. Both civil society and health care providers review the information at an 'interface meeting' and develop an action plan to improve health services.

**Participatory Health Facility Assessments:** District officials, health care providers, community members and the media use checklists to jointly assess the provision of health care and identify critical gaps. Using this information, the assessment teams address immediate concerns and may also advocate for increased budget at the district and national level to fulfill the Government's commitments.

**Health Committees:** Civil society and the health care providers establish a health committee to work together to improve effectiveness of the health service delivery. Such committees ensure community participation in decision-making about the services.

**Citizen Charters:** Citizen's charters provide guidelines on the client and provider relationship and explain in detail the standards a client can expect and demand. They are used to make clients aware of what they are entitled to.

**Social Watch Campaigns:** Civil society groups develop and use tools, such as checklists, verbal death autopsies, community scorecards and public hearings, to monitor health service delivery and progress on implementing policies; provide community members with information about their health situation, their health care rights and government policies; and share their findings and clients' stories publicly and demand change from decision makers. Elected local government representatives can also be involved in the assessment of the services.

**Information Sharing and Campaigns:** Both citizens and health care providers (duty bearers) are informed of citizens' rights to health care services, quality standards, and the expected provider performance standards.

**Complaint Mechanisms:** Civil society works with health care providers to establish formal channels for health care services users to complain about a service and demand justice or change. Examples include establishing complaint boxes or an ombudsperson as well as a process for resolving the complaints received that may also involve citizens.

## Resources for Using Community Scorecard Methods

- Citizen Voice and Action, developed by World Vision. The Citizen Voice and Action Field Guide is available at: <https://docs.google.com/file/d/0B01TNkdJ61czblk1ZWhON2F0cWc/edit>
- Partnership Defined Quality, developed by Save the Children. The Partnership Defined Quality Manual is available at: <http://www.savethechildren.org/atf/cf/%7B9def2ebe-10ae-432c-9bd0-df91d2eba74a%7D/PDQ-Manual-Updated-Nigeria.pdf>  
The PDQ Facilitation Guide is available at: [http://www.coregroup.org/storage/documents/Social\\_Behavior\\_Change/Save\\_PDQ\\_Facil\\_Guide.pdf](http://www.coregroup.org/storage/documents/Social_Behavior_Change/Save_PDQ_Facil_Guide.pdf)
- The Community Score Card, developed by CARE: A generic guide for implementing CARE's CSC process to improve quality of services is available at: [http://www.care.org/sites/default/files/documents/FP-2013-CARE\\_CommunityScoreCardToolkit.pdf](http://www.care.org/sites/default/files/documents/FP-2013-CARE_CommunityScoreCardToolkit.pdf)
- CSC Tools and Resources are available at: <http://governance.care2share.wikispaces.net/CSC+Tools+and+Resources>

## Resources for Other Methods

- Citizen Report Cards: On-line course on using citizen report cards available at: <http://www.citizenreportcard.com/>
- Citizen Charters: The 'How-to Notes: Citizen Charters: Enhancing Service Delivery through Accountability' is available at <http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resources/244362-1193949504055/4348035-1298566783395/7755386-1301510956007/CC-Final.pdf>
- Social Watch, developed by White Ribbon Alliance: 'Promoting Accountability for Safe Motherhood: The White Ribbon Alliance's Social Watch Approach' available at: [http://www.healthpolicyinitiative.com/Publications/Documents/1282\\_1\\_Social\\_Watch\\_WRA\\_HPI\\_FINAL\\_acc.pdf](http://www.healthpolicyinitiative.com/Publications/Documents/1282_1_Social_Watch_WRA_HPI_FINAL_acc.pdf)

## WORKSHEET 5: ACTION PLANNING

PROBLEM:							
SOLUTION:							
Objective/What we want to achieve:							
Activities	Description	By who?			By When?		Resources Required
		On our own	With others	By others	Now	Soon	
Activity 1							
Activity 2							
Activity 3							
Activity 4							

## ▶ HANDOUT 10: STEPS TO ACTIVITY PLANNING

**To develop an action plan for your community group, follow these steps to fill in the Action Plan Matrix.**

1. Write a short description of the problem you have selected at the top of the sheet in the box labelled 'Problem.'
2. Discuss what solutions you can use to address this problem and pick the one that they want to use. Write a short description of the solution in the box labelled 'Solution.'
3. Discuss what changes you hope to achieve. This is your objective. Write your objective in the box labelled 'Objective.'
4. Think about the activities you can do that will result in the solution. Put them in the order in which you will do them and write them in the left-hand column, labelled 'Activities'. **Note:** It is important to be very specific when discussing activities. Break down large activities into small ones.
5. For each activity, decide who should carry it out. Should it be done by your group alone or together with other groups? Write the names of each person or organization in the appropriate column.
6. For each activity, decide when it should be done by. Should it be done now? Soon (within weeks/a few months)? Or later (after a few months)? How long will it take? Figure out when it will be done, and write a specific date in the appropriate column.
7. For each activity, discuss what resources will you need to do it successfully. Think about physical resources (for example, condoms, transportation, snacks), human resources and financial resources. Write these resources in the last column.
8. For each activity, discuss who will take the lead responsibility to make sure it is done. Write the names of these people next to each activity.
9. Look at your action plan as a whole. Does it make sense? Is anything missing? Is it realistic? Make any changes they think are needed.
10. Get the agreement of any people or groups that you have included in your plan (but who are not there when you make the plan) that they will do what you would like them to do.
11. Implement your plan!



# ▶ ANNEX A: TEXT OF RELEVANT LEGAL PROVISIONS FROM THE CONSTITUTION, AND NATIONAL AND INTERNATIONAL LAWS

The exact wording of the articles that ensure the rights included in this session are presented below.

## CONSTITUTION OF THE KINGDOM OF CAMBODIA (1993)

### Article 31.

The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights, the covenants and conventions related to human rights, women's and children's rights. Every Khmer citizen shall be equal before the law, enjoying the same rights, freedom and fulfilling the same obligations regardless of race, color, sex, language, religious belief, political tendency, birth origin, social status, wealth or other status.

### Article 32.

Every Khmer citizen shall have the right to life, personal freedom, and security. There shall be no capital punishment.

### Article 38.

The law guarantees there shall be no physical abuse against any individual. The law shall protect life, honor, and dignity of the citizens. The prosecution, arrest, or detention of any person shall not be done except in accordance with the law. Coercion, physical ill-treatment or any other mistreatment that imposes additional punishment on a detainee or prisoner shall be prohibited.

### Article 39.

Khmer citizens shall have the right to denounce, make complaints or file claims against any breach of the law by state and social organs or by members of such organs committed during the course of their duties. The

settlement of complaints and claims shall be the competence of the courts.

### Article 41:

Khmer citizens shall have freedom of expression, press, publication and assembly. No one shall exercise this right to infringe upon the rights of others, to effect the good traditions of the society, to violate public law and order and national security.

### Article 45.

All forms of discrimination against women shall be abolished. The exploitation of women in employment shall be prohibited. Men and women are equal in all fields especially with respect to marriage and family matters.

### Article 46.

... The state and society shall provide opportunities to women, especially to those living in rural areas without adequate social support, so they can get employment, medical care, and send their children to school, and to have decent living conditions.

### Article 72.

The health of the people shall be guaranteed. The State shall give full consideration to disease prevention and medical treatment. Poor citizens shall receive free medical consultation in public hospitals, infirmaries and maternities.

### Article 14.

...Citizens shall have the right to appeal against the constitutionality of laws through their representatives or the President of the Assembly, members of the Senate or President of the Senate as stipulated in the above paragraph.

## **SUB-DECREE ON THE CODE OF MEDICAL ETHICS (2003)**

### **Article 2:**

In practicing the medical profession, either in private or public, medical professionals shall respect people's body, life and dignity.

### **Article 4:**

For the benefit of patients, medical professionals shall keep patient confidentiality as determined by law.

### **Article 7:**

Medical professionals shall listen, examine, advise or treat all people consciously and equally regardless of nationality, tradition, family status, race, religion, reputation or sentiment. In all circumstances, medical professionals should uphold to be gentle and have appropriate behaviour to assist and support those people they treat.

### **Article 9:**

Medical professionals shall, before the patients or the seriously injured, save those patients or make sure that they receive the most necessary healthcare.

### **Article 33:**

For the patients they examine, treat or advice, physicians shall state honestly, clearly and properly the information about health conditions of the patients, researches and cares they shall conduct during the period of treatment.

### **Article 34:**

In all cases, consent to examine and care for the patient must be obtained. When the patient, who is aware, refuses the conduct of research or medical treatment methods to be provided to them, medical professionals shall respect their decision after explaining about consequences of that refusal to the patients. If the patients cannot express their will, medical professionals cannot intervene without the presence of patient's families except in an emergency case or inability to contact those families.

### **Article 39:**

If there is no critical medical reason and without informed consent of the patients, surgery shall not leave the patient with an unintended outcome except in an emergency case or when unable to contact the patients' family.

### **Article 43:**

Medical professionals shall create medical records for each patient. This medical record shall be kept confidential.

### **Article 69:**

Medical professionals shall make sure all their assistants know about their obligations to keep professional confidentiality and encourage them to follow. Medical professionals shall be especially careful so that the people around them do not compromise the confidentiality through professional correspondence.

### **Article 70:**

Medical professionals shall prevent the leakage of secrets of personal documents and medical information of the patients they have cared for, examined or treated no matter how significant and useful those documents are.

## **SUB-DECREE ON CODE OF ETHICS FOR NURSES (2014)**

### **Duties and Responsibility of Nurse:**

#### **Article 5.**

To accomplish her/his duties and responsibility, nurse shall:

1. Practice her/his job with compassion, sympathy, good behavior, politeness, correctness and concentration toward patient;
2. Respect the life, physical body, honor and dignity of the patient;
3. Nursing service shall be provided fairly to all without discrimination and
4. Regardless of economic status, or patient's society, nationality, race, sex, language, religion, culture, political tendency or status of diseases;

10. Provide a safe and effective nursing care. In case of emergency, nurse need to co-operate with other related health groups and other section aiming to ensure that the danger which may harm the patient is mitigated;
13. Professional confidentiality and other regulations that related to patients' health condition, diagnoses and other personal and private information, patient's dignity and honor shall be respected;
15. Respect the request of the patient for acceptance or objection of nursing care;
16. Provide advice and protection of the rights of patient, patient's family and community who involve in nursing care of patient, participate in health promotion, rehabilitation and protection.

**Article 7:**

Nurse shall always stay close to the patients. In case that patient fall in danger, nurse(s) must provide emergency rescue or provide primary rescue and then refer to an appropriate health service as require.

**Relationship between Nurse and Client,**

**Article 10.**

In the case that the patient, patient's family, parents, guardian or legal representative deny the nursing care service, nurse shall have to abide with their request for denial, but can explain the consequence that may happen.

**Article 12.**

Nurse may refuse to provide nursing care to patient by her/his professional reason or personal reason except in case of emergency. If the nursing service is denied, nurse must refer the patient to another service which is safe.

**SUB-DECREE ON THE CODE OF ETHICS FOR MIDWIVES (2013)**

**General Duties and Responsibilities of a Midwife:**

**Article 5.**

To fulfil their duties and responsibilities, a midwife shall:

1. Be responsible and accountable professional and works in partnership with women and her partner, family, and representative.
5. Provide safe and effective midwifery care with morality, good behaviour, friendly and correct words/information, and care/attention.
8. Respect the life, body, honor and dignity of patients while providing midwifery services.
9. Be responsible for professional confidentiality as prescribed by law and relevant provisions for maintaining the privacy, honor and dignity of patients.
11. Provide midwifery services to a patient without discrimination based on race, color, language, belief, religion, political affiliation, origin, social status, resource, or other status.

**Article 7.**

A midwife shall stay with a woman, who is pre-delivery, delivering, has recently delivered, and/or an infant. In the case of mother and/or an infant in an immediate danger, a midwife shall provide emergency obstetric neonatal care or provide primary life-saving and refer to midwifery service or other appropriate services.

**Relationship between Midwife and Woman or Patient:**

**Article 11.**

In the event that a patient, her husband, parents, guardian or the legal representative of the patient refuses the treatment or healthcare administered by the midwife, the midwife shall respect their choice and explain to them the consequences of such refusal.

**Article 12.**

A midwife shall inform about the health condition to the patient, her husband, partner, family or her legal representative with patient's consent.

**Article 13.**

A midwife may refuse to provide midwifery services to any patients based on professional or personal reasons except in case of emergency. If services are refused the midwife shall refer the patient to alternative services.

## **LAW ON THE PREVENTION AND CONTROL OF HIV/AIDS (2002)**

### **Article 26:**

The State shall ensure that all persons with HIV and AIDS shall receive primary health care services free of charge in all public health networks, and encourage the participation from the private sector.

### **Article 31:**

All HIV testing centers shall adopt measures to assure the maintenance of confidentiality of the reports, medical records, personal information including all information which may be obtained from other sources. Monitoring process shall utilize a coding system that promotes anonymity.

### **Article 33:**

The confidentiality of all persons who have HIV or AIDS shall be maintained. All health professionals, workers, employers, recruitment agencies, insurance companies, data encoders, custodians of medical records related to HIV and AIDS, and those who have the relevant duties shall be instructed to pay attention to the maintenance of confidentiality in handling medical information, especially the identity and personal status of persons with HIV and AIDS.

### **Article 34:**

The medical confidentiality shall be breached in the following cases:

- a. When complying with the requirement of HIV and AIDS monitoring program, as provided in Article 30 of this law;
- b. When informing health workers directly or indirectly involved in the treatment or care to the persons with HIV and AIDS;
- c. When responding to an order issued by the court related to the main problems concerning the HIV and AIDS status of individuals. The confidential medical records shall be properly sealed by the custodian, after being thoroughly checked by the responsible person, hand delivered, and opened officially and confidentially by the judge in front of the legal proceeding.

### **Article 35:**

All HIV testing results shall be released to the following persons:

- a. The person who voluntarily requests HIV testing;
- b. A legal guardian of a minor, who has been tested for HIV;
- c. A person authorized to receive such testing results in conjunction with HIV monitoring program as provided in the article 30 of this law; and
- d. The requirement of the court, as provided as point (C) in article 34 of this law.

### **Article 41:**

Discrimination against a person with HIV or AIDS in the hospitals and health institutions is strictly prohibited. No person shall be denied to receive public and private health care services or be charged with higher fee on the basis of the actual, perceived or suspected HIV or AIDS status of the person or his/her family members.

**Note:** Discrimination in employment, education, housing, travel, credit and loans, insurance based on the actual, perceived or suspected HIV status of individual or his/her family members are also explicitly against the law.

### **Article 42:**

The person with HIV or AIDS shall have the same rights as of the normal citizens as stated in the Chapter 3 of the Constitution of the Kingdom Cambodia.

## **LAW ON ABORTION (1997)**

### **Article 4:**

In any case, it is required to have a proposal or consent from the concerned woman who has the foetus, for abortion.

### **Article 8:**

Abortion may only be carried out for those foetus which are under 12 weeks old. If the foetus are over 12 weeks old, may be authorized to be aborted only if after a diagnosis it is found out that:

- There is a probable cause that such foetus does not

develop itself as usual or which may cause danger to the mother's life.

- The baby who is going to be born may have a serious and incurable disease.
- In case, if after victimized of a rape and got pregnant, the abortion may be carried out disrespect of the above stated conditions, however in all cases, there must be a request from the concerned person, if such person is 18 years old or above old or above, or an insistent request from parents or guardian and from the concerned person, if such concerned woman is under 18 years old.

Decision on this above matter, requires an approval from a group of 2 to 3 doctors and also a consent from the concerned person.

#### **Article 14:**

Any person who compels a woman to have an abortion or causes her an abortion, shall be punished from 1(one) to 5 (five) years in prison. If such compulsion of the pregnant woman to have an abortion or which causes her an abortion which resulted in a chronic disease, disability or death, shall be subject punishment from 5 (five) to 10 (ten) years in prison.

## **CRIMINAL CODE**

#### **Article 207:**

**Unintentional Homicide** - The act causing death to another person that constitutes an unintentional homicide is as follows: 1. an imprudence, a carelessness or a negligence; 2. violation of an obligation of safety or of prudence/carefulness imposed by law. The unintentional homicide is punishable by an imprisonment from between 1 (one) year to 3 (three) years and by a fine from between 2,000,000 Riels to 6,000,000 Riels.

#### **Article 236:**

**Acts of Unintentional Injuries** - The offence that causes unintentional injuries to another is an act of injuring other persons through: 1. an imprudence, a carelessness or a negligence that causes the inability to work for a period of equal to or more than 8 (eight) days; 2. violation of an obligation, safety or carefulness imposed by law.

The unintended offence causing wounds is punishable by an imprisonment of between 6 (six) days and 2 (two) years and a fine of between 1,000,000 (one million) Riels and 4,000,000 (four million) Riels.

#### **Article 265:**

**Acts of Refusing to Supply Goods or Service** The act of refusing to supply goods or service to a person is punishable by an imprisonment of between 1 (one) month and 1 (one) year and a fine of between 100,000 (ten thousand) Riels and 2,000,000 (two million) Riels when the refusal is based on one of the following motives: ...5. a person's family situation; 6. a person's sex; 7. a person's state of health; 8. a person's disability.

#### **Article 314:**

##### **Acts of Infringement on Professional Confidential.**

Any person who holds, by reason of his/her position, profession, function or mission, an information of confidential nature, and if he/she has revealed the said information to an unauthorized person to know its content, is punishable by an imprisonment of between 1 (one) month and 1 (one) year and a fine of between 100,000 (one hundred thousand) Riels to 2,000,000 (two million) Riels. The offence does not constitute in the case where the law authorizes or imposes the revelation of the secrets.

## **UNIVERSAL DECLARATION OF HUMAN RIGHTS**

#### **Article 1:**

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

#### **Article 2:**

1. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. Furthermore, no distinction shall be made on the basis

of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

**Article 3:**

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

**Article 5:**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

**Article 7:**

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

**Article 8:**

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

**Article 12:**

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

**Article 16:**

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

**Article 25:**

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

## **INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS**

**Article 6.**

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life (**Note: there are additional parts to this Article on the death penalty that are not cited here**).

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

**Article 17:**

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

**Article 23:**

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and

responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

**Article 26:**

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

## **INTERNATIONAL COVENANT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Article 12:**

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

## **CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)**

**Article 12:**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of

health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

**Article 15:**

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

**Article 16:**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
  - (a) The same right to enter into marriage;
  - (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
  - (c) The same rights and responsibilities during marriage and at its dissolution;
  - (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

- (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
- (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
- (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
- (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

## **LAWS RELATED TO REGULATION OF HEALTH PROFESSIONALS**

### **ROYAL DECREE ON THE ESTABLISHMENT OF THE MEDICAL COUNCIL (2000)**

#### **Article 2:**

The Medical Council shall monitor the implementation of ethical principles, honesty, fairness and devotion which are necessary for sustainable and effective performance of medical profession. The Medical Council

shall monitor the professional practice of its members, and the implementation of other provisions as stated in the medical ethics.

#### **Article 3:**

... The Medical Council shall be responsible for preparing medical ethics... The Medical Council monitors the operation of the professional tasks and compliance.

### **SUB-DECREE ON THE CODE OF MEDICAL ETHICS (2003)**

#### **Article 22:**

In the framework of Medical Council, the Regional Medical Council (RMC) shall implement its work by focusing on disciplinary authority only. RMC can receive complaint from NMC, PMC, Medical Association, Minister of Health, Provincial-Municipal Health Department, authorities and provincial/municipal prosecutors and from physician who has registered with Medical Council. RMC shall examine and decide within six months (06) latest, after receiving the complaint. Otherwise, NMC shall send this complaint to one of the RNCs which was selected.

#### **Article 110:**

According to the Article 26 of the Royal Decree No. NS/RKT/0200/039, dated 1st February 2000... Medical Councils at all levels have the obligation to monitor the compliance with these provisions. Violations of these provisions shall result in disciplinary punishments by the Regional Medical Council with participation of the disciplinary unit of the National Medical Council. In this case, the Regional Medical Council's president shall enforce the decision.



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