

# HIV: KNOW YOUR RIGHTS AND RESPONSIBILITIES IN VIET NAM

There were an estimated 280,000 People Living  
With HIV ("PLHIV") in Viet Nam in 2006



**HIV**  **AIDS**

The Ministry of Health estimates that there are over  
100 new HIV infections in Viet Nam every day



## HIV & AIDS

HIV is the abbreviation of the English phrase *Human Immunodeficiency Virus*, which is the virus that causes the acquired immune deficiency syndrome in humans, causing the body to lose the ability to fight disease-causing agents.

HIV is transmitted from person to person through unprotected sex, transfusion of infected blood, sharing of contaminated needles and from mother to child during pregnancy or breastfeeding.

AIDS is the abbreviation of the English phrase *Acquired Immune Deficiency Syndrome*, which is caused by HIV, normally manifested by opportunistic infections and cancers, and may lead to death.



## The link between human rights and HIV

Protecting human rights is critical to preventing the spread of HIV, and reducing HIV-related stigma and discrimination.

People living with HIV (PLHIV) have the same human rights as everyone else in Viet Nam.

Viet Nam has signed up to the UNGASS declaration, which recognises that: “Realisation of human rights and fundamental freedoms for all is essential to reduce vulnerability to HIV/AIDS.”<sup>1</sup>

Viet Nam has committed to achieving the Millennium Development Goals including MDG 6: to halt and reverse the spread of HIV by 2015.

1. Declaration of Commitment on HIV/AIDS Adopted at the 26th United Nations General Assembly Special Session, June 2001.

## The link between human rights and the law in Viet Nam

Viet Nam is a member of the United Nations and has ratified the key international instruments recognising human rights. All Vietnamese citizens can enjoy human rights and these rights are protected by the laws of Viet Nam

In order to claim your rights, you have to know what rights are recognised and protected in Viet Nam.

Everyone can play a role in promoting the human rights of PLHIV – from participating in community projects and fighting against stigma, to providing care to PLHIV and holding duty-bearers accountable.



## The Law on HIV/AIDS Prevention and Control

The Law on HIV/AIDS Prevention and Control (“the Law”) has been operational throughout Viet Nam since 1 January 2007.

The Law provides for HIV/AIDS prevention and control measures; the care, treatment and support for people living with HIV and conditions for the implementation of HIV/AIDS prevention and control measures.

Decree 108 of 2007 detailing the implementation of a number of articles of the Law on HIV/AIDS Prevention and Control contains more detailed information about key provisions in the Law.

## Sources of support for your legal rights

The Peoples' Committees (at all levels) are responsible for providing information on HIV/AIDS prevention and control - including information about your rights and obligations (You can get more information about this from Article 12 of the Law).

If you feel that your rights have been violated, you can go to your provincial (or lower level) AIDS Centre, VWU, Consulting Centre or Legal Aid Centre for help.

Go to your local peer-support group for people affected by HIV for information about HIV transmission and your fundamental rights.

Call the free legal advice hotline:  
1800 1521



## Right to non-discrimination and freedom from stigma

According to Article 4: PLHIV have the right to live in integration with the community and society.

According to Article 8: Stigma and discrimination against PLHIV is prohibited.

Discrimination is any unfair or different treatment of a person because of the belief that such person is infected with HIV or has a close relationship with a PLHIV.

Stigma is an attitude of contempt or disrespect towards another person because of the belief that the person is infected with HIV or has close relationship with a PLHIV.

## What this right means to you

You have the same fundamental rights as others.

You should not be discriminated against because you or someone close to you is HIV positive. Discriminatory acts include: alienation, isolation, maltreatment, disgrace, prejudice or restriction of rights.

You have the same rights as others to access benefits and services, including livelihood resources such as land and other benefits available under poverty eradication programmes.

You have the right to be free from HIV-related stigma. Your community has an obligation to fight stigma.





## Right to privacy and confidentiality

According to Article 4: You have the right to privacy and to keep your HIV status confidential.

According to Articles 8 and 28: You cannot be forced to have an HIV test unless there is an official request for the test relating to legal proceedings, or in certain necessary cases for diagnoses and treatment purposes according to government regulations.

According to Article 30: Parents or guardians of persons under 16 can give consent to testing on behalf of the children in their care. They are entitled to be notified of the HIV status of children in their care.

According to Articles 8 and 30: Disclosing or making public the name, address or images of a PLHIV without the person's consent is prohibited, except in very limited circumstances.

## What this right means to you

You are not required to disclose your HIV status to anyone except your spouse or fiancée. If you are asked to disclose your status, you have the right to refuse.

*But:* you must not engage in behaviour that may put others at risk of infection. In some situations, you may be required to disclose your HIV status to someone so that they can protect themselves from HIV transmission.

Article 30 of the Law lists the people who are entitled under law to be notified if you are HIV positive.

For example, health workers who are assigned to directly provide treatment and care to PLHIV are entitled to be notified if you agree to an HIV test and if you test positive. They are then responsible for keeping your HIV status confidential.



## Right to enjoy medical treatment and healthcare

According to Article 4: You have the right to enjoy medical treatment and healthcare.

According to Article 8: Refusing to provide medical examination or treatment to a patient who is known or suspected to be HIV positive is prohibited.

According to Article 38: You have the right to medical care and treatment for opportunistic infections.

According to Article 8: Refusing to bury or cremate the dead for HIV-related reasons is prohibited.

According to Article 13: Families of PLHIV are responsible for rearing, caring and providing moral support to PLHIV.

## What this right means to you

You have the right to equal treatment in healthcare facilities as other patients. Your family also has an obligation to provide you with care and support.

You have the right to information to enable you to take care of your own health and prevent transmission of HIV to others.

You have the right to access care, support and treatment for HIV and opportunistic infections. The State shall facilitate you to have access to ARVs through projects and programs suitable to socio-economic conditions.

You also have the right to refuse medical examination and treatment when having treatment of full-blown AIDS.



## Right to work

According to Article 4: You have the right to vocational education and to work.

According to Article 14: All employers are responsible for implementing HIV prevention activities in the workplace.

According to Articles 14 and 28: Employers are not allowed to ask employees to have an HIV test. Only in specific occupations (which need to be approved by the Government) can an employer require a job applicant to undergo an HIV test.

According to Article 14: Employers must arrange jobs suitable to your health and professional qualification.

Employers are not allowed to discriminate against you on the grounds that you are or might be HIV positive.

## What this right means to you

Everyone has the right to safe and healthy working conditions. If you are exposed to HIV or infected with HIV through your work you have the right to emergency treatment to limit the risk of HIV infection, and to access free ARVs if necessary.

Your employer is not allowed to:

- terminate your employment or cause difficulties in your work;
- force you to change your job if you are still physically fit;
- refuse to give you a salary rise or promote you; or
- fail to ensure your legitimate rights or benefits.

You have the right to continue to work if your employer can find work that you are physically able to carry out.



## Right to education

According to Article 4: You have the right to general education like everyone else.

According to Article 15: All education facilities are responsible for providing information on HIV prevention.

According to Article 15: Education facilities are not allowed to request a student or candidate to have an HIV test or produce a test result.

According to Article 15: Education facilities are not allowed to do any of the following things on the grounds that the student or learner is HIV positive or suspected of being HIV positive:

- Refuse to admit the student/learner;
- Discipline or expel the student/learner;
- Separate, limit or forbid the student/learner from participating in school activities.

## What this right means to you

You and your children have the same right to attend schools or education establishments as everyone. Where possible, your children should not miss out on school to care for you or your family.

You can not be asked to take an HIV test or disclose your HIV status in order to attend any training establishment.

Schools cannot discriminate against children on the grounds of HIV, even if under pressure from other parents.

Schools have a responsibility to educate all students about HIV and how it is transmitted, and to challenge HIV-related stigma and discrimination.





## Right to marry and found a family

You have a right to marry and have children if you choose to do so.

Pregnant women are entitled to free HIV test.

According to Article 8: It is prohibited to abandon HIV-infected children.

## What this right means to you

You should not be pressured or discouraged from marrying or having children if you are HIV positive – but you do have an obligation to tell your spouse of your HIV status, and couples getting married are encouraged to have HIV testing.

Pregnant women are encouraged to have an HIV test. If a pregnant woman is a HIV positive, she is entitled to counselling on HIV prevention and control. She may also be able to access drugs which reduce the likelihood of the unborn child being HIV positive.



## Right to information and participation

According to Articles 11 and 22: You have the right to access information, education and communication on HIV/AIDS prevention and control.

According to Article 26: Anyone who has an HIV test has the right to pre - and post - test counselling on HIV.

According to Article 20: You have the right to participate in HIV prevention and control activities, including forming peer-support groups.

## What these rights mean to you

You have the right to the most up-to-date information on HIV prevention, counselling and treatment in your native language.

According to Article 10: Every citizen has the right to accurate information about HIV that will empower them to protect themselves from infection, including specific information on the rights and responsibilities of PLHIV.

You have the right to form peer support groups as provided in the law.



**Your responsibility to take measures to prevent the transmission of HIV to others and to inform spouse of positive test result.**

According to Article 4: You have the responsibility to inform your spouse or fiancée of a positive HIV test result.

According to Article 4: You are required to apply measures to prevent the transmission of HIV to other people.

According to Article 8: You are prohibited from purposefully transmitting or causing the transmission of HIV to another person, and from threatening to transmit HIV to another person.

If you violate any of these provisions, you may be punished under the Law.

## What this means for you

Your spouse or future spouse has a right to know about your HIV status. You must tell them your HIV status. If you do not, they may be informed by the authorities.

When engaging in sexual behaviour you are required to take measures to prevent transmission of HIV to your partner(s) during sex – including using a condom during sex from beginning to end every time you have sex.

If you are an injecting drug user and have not succeeded in detoxification, do not share needles with anyone.

HIV positive women who are pregnant should seek medical advice on how to minimise the risk of HIV transmission to the child.



## Responsibility to observe instructions on treatment with ARVs

You have a responsibility to follow the instructions of your doctor if you are receiving ARV treatment.

This is because:

- A failure to adhere to the proper ARV regimen can result in the HIV virus developing a tolerance to the ARV therapy – meaning that this particular drug may no longer work for you and your HIV virus may become stronger and harder to treat.
- ARVs are expensive and only work if they are taken exactly as prescribed.

You can find more information about HIV and your rights from these sources:

Free legal advice for PLHIV  
(Viet Nam Lawyers' Association and USAID):

- Free hotline: 1800 1521
- HCMC clinic: 08.822 3028

Viet Nam Administration of HIV/AIDS Control  
[www.vaac.gov.vn](http://www.vaac.gov.vn)

Viet Nam Women's Union  
[www.hoilhpn.org.vn](http://www.hoilhpn.org.vn)

UNAIDS Vietnam  
[www.unaids.org.vn](http://www.unaids.org.vn)

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**UNAIDS**

JOINT UNITED NATIONS PROGRAMME ON HIV/AIDS

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