

**Campaign Manual**  
**On**  
**Law, Ethics, Human Rights and HIV/AIDS in Bangladesh**

**Prepared by:**

**Bangladesh Manobadhikar Sangbadik Forum- BMSF**  
**(Human Rights Journalists Forum of Bangladesh)**  
**House- 312 (3<sup>rd</sup> Floor), Road- 2, Baitul Aman Housing Society**  
**Adabor, Shyamoli, Dhaka- 1207**  
**Tel: 9141462, E-mail: bmsf@bol-online.com**

**Contact Person:**  
**Khairuzzaman Kamal**  
**Executive Director**

Campaign Manual  
On  
Law, Ethics, Human Rights and HIV/AIDS in Bangladesh  
@Bangladesh Manobadhikar Sangbadik Forum- BMSF

April 2003

**Acknowledgement**

Bangladesh Manobadhikar Sangbadik Forum- BMSF gratefully acknowledges the support of Dr. Uttam Kumar Das, Assistant Professor, School of Law, Queens University, Banani, Dhaka- 1213, Bangladesh

## **Contents**

### **Introduction:**

### **Section One:**

HIV/AIDS: Global, Regional and Bangladesh Situation

Global Summary of the HIV/AIDS Epidemic

People Newly Infected with HIV in 2000

Regional Overview of the Epidemic

HIV: A Rapidly Expanding Epidemic

HIV: A Human Rights Issue

Guidelines on Language for HIV/AIDS Reporting

Context of the Problem: HIV/AIDS in Bangladesh

Update HIV/AIDS Situation in Bangladesh

### **Section Two**

Vulnerable Group Analysis

Vulnerable Groups Related to HIV/AIDS in Bangladesh

People Living with HIV/AIDS (PLWA)

HIV/AIDS Related Discrimination in Delivery of Healthcare

Duty to Treatment

Sex Workers

Legal Status of Sex Work in Bangladesh

Problems Faced by the Sex Workers

*Hijra*

Streets Children

Professional Blood Donors

Professional Blood Donors

Men Having Sex with Men (MSM)

Why is MSM Vulnerable to HIV/AIDS

Laws that create impediments to intervention and outreach amongst MSM

Injecting Drug Users

Migrant Workers and Truck Drivers

### **Section Three**

Legal, Ethical and Human Rights of PLWA+Vulnerable Group

Law

Constitution of Bangladesh

Human Rights

Legal and Fundamental Rights

Fundamental Rights Recognized in the Constitution of Bangladesh

Voice on Stigma and Discrimination and Human Rights on HIV/AIDS

Declaration of Commitment on HIV/AIDS and Human Rights

#### **Section Four:**

Media Campaign

- Role of Media
- Electronic Media
- Print Media
- Traditional Media
- Sympathetic Journalism
- Empathetic Journalism

## **Introduction**

Bangladesh Manobadhikar Sangbadik Forum- BMSF, formed in 1991 is an organization of working journalists of different dailies, weeklies, news agencies and electronic media. It's main objective is to mobilize the media personnel in development campaign in the country.

It has 9 (nine) members Executive Committee and 64 branch committees in all over the country.

BMSF is working in an integrated approach and that also include the Bangladesh Federal Union of Journalists, the Dhaka Union of Journalists, Press Clubs and other associations related to journalism in the country.

The vision of the organization is to ensure the human, women and child rights, safe environment, prevention of HIV/AIDS and a drug free society.

With this end in view BMSF initiates a country wide program of Media Campaign on Legal, Ethical and Human Rights of the Vulnerable Group Related to HIV/AIDS.

## **Objectives:**

- Utilize the Campaign Manual to motivate the people for the rights of the vulnerable groups include people living with HIV/AIDS.
- Prevent, reduce and ultimately eliminate HIV/AIDS related stigma and discrimination.
- Increase the self –awareness and understanding of individuals and institutions about their role in contributing to stigma and discrimination.
- Continuous Policy Lobbying on Legal, Ethical & Human rights issues of the stated groups.
- Create Enabling Environment on Human Rights related to HIV/AIDS.

## **Section One:**

### **Objective of this Session:**

To know what is HIV/AIDS?

HIV/AIDS: Global, Regional and Bangladesh Situation Analysis.

### **Session Content:**

Basic Facts about HIV

HIV - Human Immune Deficiency Virus

~ HIV is a retrovirus.

~ HIV attacks the immune system, which helps defend the body against infections. Over a period of time, the virus overwhelms the immune system. The body is then not able to successfully defend itself from opportunistic infections.

~ The virus targets a cell known as the T4 lymphocyte.

~ It can be isolated from blood, semen, and secretions that include cervical and vaginal, breast milk, saliva, tears and urine. But a certain viral load is necessary for the infection to be successfully transmitted.

## **AIDS – Acquired Immune Deficiency Syndrome**

- ~ It is a life threatening condition and is characterised by the destruction of certain cells mainly the T4 lymphocytes. This leads to opportunistic infections, which are severe and ultimately fatal.
- ~ The length of time from when a person is infected with HIV to the development of AIDS varies from person to person. People can remain healthy for any time from a few years to more than ten years before developing any AIDS related symptoms.
- ~ If a blood test shows that a person has HIV it does not necessarily mean that he/she has AIDS.

### **Modes of Transmission**

- ~ Sexual Intercourse
- ~ Pregnancy-related vertical transmission
- ~ Blood transfusion
- ~ Sharing of infected needles used to inject drugs intravenously.

### **HIV cannot be transmitted by:**

- ~ Casual everyday contact e.g. shaking hands, hugging, kissing, coughing, sneezing
- ~ Donating blood
- ~ Using common swimming pools or public toilet seats
  - Sharing bed linen, eating utensils, food
- ~ Animals, mosquitoes, and other insects

## **Origin and History**

- ~ In the late 70's doctors began to recognize a new pattern of illnesses.
- ~ In 1981 – AIDS was recognized as a syndrome (a group of symptoms emerging from a common cause) of illnesses.
- ~ In 1983 – HIV was identified.
- ~ In 1984 – HIV was isolated in France and the United States.
- ~ In 1985 – HIV semen antibody test for the diagnosis of HIV became available.

## **Diagnosis**

- ~ HIV antibodies can be detected through the HIV antibody test about 3-6 months after infection.
- ~ The period during which the antibodies are not yet detected is called the window period. Transmission of infection can take place during this period.
- ~ Screening is done by a test know as the ELISA test – Enzyme Linked Immuno Sorbent Test Assay. If it is positive it is followed by a confirmatory test which is either Western Blot or Fluorescent Antibody Technique.
  - Incubation period of AIDS is the time between infection and the onset of symptoms. It varies from person to person.

## **Treatment of HIV**

Since HIV is a retrovirus, medications are mainly anti-retroviral. Treatment is a three-drug combination therapy.

The drugs are:

a) NRTIs: Nucleoside Reverse Transcriptase Inhibitors

b) NNRTIs: Non-Nucleoside Reverse Transcriptase Inhibitors

Reverse Transcriptase is an enzyme that changes the HIV in a way that enables it to become part of the nucleus of a target cell thereby allowing it to make copies of itself. NRTIs and NNRTIs inhibit (slow down) the action of this enzyme. If this enzyme does not do its job properly HIV cannot take over and start making new copies of itself.

## **Global Summary of the HIV/AIDS Epidemic:**

People newly infected with HIV in 2000 Total

Total- 5.3 million

Adults- 4.7 million

Men- 2.5 million

Women- 2.2 million

Children <15 years- 600,000

**Number of people living with HIV/AIDS Total**

**Total: 36.1 million**

Adults- 34.7 million

Men- 18.3 million

*Women- 16.4 million*

Children <15 years- 1.2 million

**AIDS deaths in 2000 Total**

Total: -

Adults- 2.5 million

Men- 1.2 million

*Women- 1.3 million*

Children < 15 years- 500,000

**Total number of AIDS deaths since the Beginning of the epidemic**

**Total- 21.8 million**

Adults- 17.5 million

Men- 8.5 million Women- 9 million

Children <15 years- 4.3 million

(Source: *Gender, HIV and Human Rights: A Training Manual*, developed by UNFPA, UNIFEM and UNAIDS)

## REGIONAL OVERVIEW OF THE EPIDEMIC

<b>Region</b>	<b>Epidemic started</b>	<b>Adults &amp; children living with HIV/AIDS</b>	<b>Adults &amp; children newly infected with HIV</b>	<b>Adult Prevalence rate</b>	<b>Percent of HIV-positive adults who are women</b>	<b>Main mode(s) of transmission 10 for adults living with HIV/AIDS</b>
Sub-Saharan Africa	Late '70s -Early '80s	25.3 million	3.8 million	8.8%	55%	Hetero
North Africa & Middle East	Late '80s	400 000	80 000	0.2%	40%	IDU, Hetero
South & South-East Asia	Late '80s	5.8 million	780 000	0.59%	35%	Hetero, IDU
East Asia & Pacific	Late '80s	640 000	130 000	0.07%	13%	IDU, Hetero, MSM
Latin America	Late '70s - Early '80s	1.4 million	150 000	0.5%	25%	MSM, IDU, Hetero
Caribbean	Late '70s	390 000	60 000	35%	2.3%	Hetero, MSM

	- Early '80s					
Eastern Europe & Central Asia	Early '90s	700 000	250 000	0.35%	25%	IDU, MSM
Western Europe	Late '70s - Early '80s	540 000	30 000	0.24%	25%	MSM, IDU
North America	Late '70s - Early '80s	920 000	45 000	0.6%	20%	MSM, IDU, Hetero
Australia & New Zealand	Late '70s - Early '80s	15 000	500	0.13%	10%	MSM, IDU
<b>TOTAL</b>		<b>36.1 million</b>	<b>5.3 million</b>	<b>1.1%</b>	<b>47%</b>	

**MSM-** Sexual transmission among men who have sex with men.

**IDU-** Transmission through injecting drug use.

**Hetero-** Heterosexual transmission

(Source: *Gender, HIV and Human Rights: A Training Manual*, developed by UNFPA, UNIFEM and UNAIDS)

### **HIV: A Rapidly Expanding Epidemic**

- ~ In 1999, there were nearly 33.6 million people living with HIV. By the end of 2000, this figure rose to approximately 36.1 million.
- ~ The percentage of women infected by HIV in 1997 was 41%, in 2000 this figure had risen to 47%.
- ~ Since 1994 in almost every country of Asia there has been a 100 percent increase in the prevalence rate.
- ~ In the last three years the prevalence rate in 27 countries has doubled. In Botswana and Zimbabwe the prevalence rate among adults is 25 percent.
- ~ HIV infections in the former Soviet Union have doubled in just two years.
- ~ The Caribbean is the region hardest hit by HIV/AIDS in the world outside sub-Saharan Africa.
- ~ HIV is considered to be among the top ten killers in the world.
- ~ In 1998, there were 2.6 million deaths from HIV/AIDS, as many as from malaria.
- ~ Thirty percent of the AIDS deaths have resulted from tuberculosis (TB).
- ~ Around half of all the people who acquire HIV become infected before they turn 25 and typically die of the life threatening illnesses called AIDS before their 35<sup>th</sup> birthday.
- ~ In 1998, Africa witnessed 5,500 funerals per day due to HIV/AIDS related deaths.
- ~ At the end of 1999, there were 11.2 million AIDS orphans around the world.

## **HIV: A Human Rights Issue**

The WHO Constitution has defined health as “**a state of complete physical, mental and social well being, not merely the absence of disease and infirmity.**” This state of human well being has been guaranteed as a human right through a number of international human rights treaties. Although health was first articulated as a human right in the Universal Declaration of Human Rights, a more detailed articulation of this right was set forth in Article 12 of the Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination Against Women reaffirmed these rights further.

The rapid spread of the HIV/AIDS epidemic has led to an infringement of the human rights of men, women and children affected by the epidemic in various ways. According to the World Development Report of 1993, half of the world’s burden of disease is attributable to communicable diseases, to maternal and perinatal causes and to nutritional disorders.

However women, particularly women in low-income nations, bear a large proportion of this disease burden. The overall morbidity and mortality for women from sexually transmitted diseases excluding HIV/AIDS is over 4.5 times that of men. The onset of the HIV/AIDS epidemic has exacerbated this situation in no small way. It has opened up a whole new area of human rights violations as the epidemic depicts a congruence of two most insidious forms of human oppression – gender and sexuality.

In response to this state of affairs the Second International Consultation on HIV/AIDS and Human Rights concluded that: the protection of human rights is essential to safeguard human dignity in the context of HIV/AIDS

and to ensure an effective rights based response to the epidemic. This conclusion was based on the recognition that when human rights are protected, less people become infected and those living with HIV/AIDS and their families can better cope with the disease.

Prevention and care for women are often undermined by pervasive misconceptions about HIV transmission and epidemiology. There is a tendency to stigmatise women as “vectors of disease,” irrespective of the source of infection. As a consequence, women who are or are perceived to be HIV-positive face violence and discrimination in public and in private life.

Sex workers often face violence and discrimination in public and in private life. Sex workers often face mandatory testing with no support for prevention activities to encourage or require their clients to wear condoms and with no access to health-care service. Many HIV/AIDS programs targeting women are focused on pregnant women but these programmes often emphasise coercive measures directed towards the risk of transmitting HIV to the foetus, such as mandatory pre- and post-natal testing followed by coerced abortion or sterilisation.

The protection of the sexual and reproductive rights of women and girls is, therefore, critical.

This includes the rights of women to have control over and to decide freely and responsibly on matters related to their sexuality. States should thus ensure women’s rights are upheld in matters relating to property, employment, divorce, access to economic resources so that women can leave abusive relationships which threaten them with HIV infection. This will also enable them to cope with the burden of caring for people living with HIV/AIDS in their households. An engendered human rights approach to the epidemic is therefore imperative.

## **Guidelines on Language for HIV/AIDS Reporting**

- Use language that is inclusive and does not create or reinforce a “them/us” mentality.
- Do not use language that is drawn from the context of war.
- Use language that is value neutral, gender sensitive and empowers, rather than disempowers. (For example avoid the term ,victims and instead use ,survivors.

The same refers to women, men, girls and boys who face gender violence. A good quote to stick in one’s mind is that of Charlene Smith, a South African journalist who has reported on her experience of being raped by a man who may have been HIV-positive: “We are only victims if we are dead.”

- The journalist should become fluent in HIV/AIDS terminology and then use language that is appropriate for the journalist’s audience.
- Use descriptive terms, which are preferred by the persons themselves who are often referred to in reporting on HIV/AIDS ( for example sex workers instead of prostitutes).
- Do not use words like “body fluids” in relation to HIV transmission because some fluids like saliva, sweat, tears, do not transmit HIV. It is better to specify the fluids that can transmit the virus such as blood, semen, vaginal fluid, breastmilk.

- Use the word , “patient” when referring to an individual who is in hospital or the story focuses on their medical treatment.
- “Having more than one sexual partner” is preferred to promiscuous which has a negative meaning and attaches a stigma.
- Avoid using the host of acronyms that have crept into the language of HIV/AIDS such as PWA(People with AIDS). People living with HIV or with AIDS is better so that individuals are not reduced to letters.

**Context of the Problem: HIV/AIDS in Bangladesh:**

Bangladesh, with a population of 126 million, is more vulnerable than many developing nations to the rapid spread of HIV/AIDS, a new study reveals. The study, which was supported by the World Bank, stressed the need to involve high-risk groups in any new national strategy along with aggressive advocacy and campaign for marketing condoms as a key prevention method.

The nationwide study reveals the existence of "high-risk" sexual practices in Bangladesh and says that the country's officially-recorded low level of HIV prevalence "is a continuing mystery" that may be "hiding" the real picture.

Official figures record only 248 HIV positive people in Bangladesh. This is in stark contrast to the high levels pertaining in other Asian countries, such as neighboring India, Myanmar (Burma), Cambodia and Thailand.

However, the WHO has estimated that the number of HIV positive people in Bangladesh may be as high as 13,000 to 17,000 while Concern staff believes the figure to be much higher.

The study cited the high prevalence of diseases such as syphilis, particularly among sex workers, and a general lack of awareness, around the HIV/AIDS issue. In addition, high poverty and malnutrition rates are conducive to the quick spread of an epidemic. As a result, "vulnerability to HIV/AIDS in Bangladesh is greater" than in many other developing countries.

"Sex Workers, MSM, Hijras, Drug Users, Migrant Workers, Streets Children and Transgender people must have recognition, acceptance and involvement in all decision-making," the report recommends regarding a national prevention strategy .

It outlines that HIV/AIDS should be treated as a "Development and human rights issue rather than a health issue" and that HIV programs should be integrated into poverty alleviation programs.

The challenge facing Bangladesh is to respond to and contain the epidemic in the prevailing conditions, which favor its spread. These include:

- High Prevalence of STIs: Known high prevalence of sexually transmitted diseases and low acceptability of condom use, together with taboos on the discussion of sexual issues. In one recent survey, 49% incidence of syphilis was found amongst sex workers, and 23% amongst all groups tested. The same study found that only one in five commercial sex workers in brothels and only one in seven truck drivers use condoms.
- High mobility and migration: Approximately 125,000 migrant workers leave Bangladesh each year for destinations such as Malaysia, Saudi Arabia, and South Korea;

- **Trafficking of Women:** Though figures vary but it is certain that Bangladeshi women are being trafficked to Pakistan, and other destinations. NGOs have estimated that 200,000 women and girls have been trafficked from Bangladesh to Pakistan over the last decade;
- **Injecting Drug Users -** UNDCP estimates that between 500,000 and 1 million people in Bangladesh are addicted to drugs. The number of injecting drug users in treatment centers increased from 6% in 1993 to 17% in 1996;

#### **Update HIV/AIDS Situation in Bangladesh:**

In the year 2002, Department of Virology, BSM Medical University detected 36 HIV positive, other government agency detected 24 HIV, total- 60 person sero-positive individuals (45-male and 15-female), which includes three families with two children. So the cumulative number has reached 248 on 1st December 2002. **Among the identified cases 111 (68%) are migrant workers, 25 (11.42%) are housewives and 88 (36.85%) are unknown. There are 2 infants, 5 fewer than 15-year-old children, 7 sex workers, 2 Truckers, 3 businessmen, 2 prisoners and 1 student among the infected.**

## **Section Two:**

### **Objective of the Session:**

**- Discuss & Oriented about Vulnerable Groups Related to HIV/AIDS in Bangladesh**

### **Content:**

#### **People Living with HIV/AIDS (PLWA):**

PLWA can live vigorous and productive lives for several years after infection if given appropriate information, treatment and support. There is still much misunderstanding about how the virus is transmitted, which affects how PLWA are treated. HIV is not a strong virus. It only survives for short time outside the body and only human blood sexual fluids and breast milk. It cannot be transmitted through tears, urine, nasal secretions, sweat or saliva.

#### **HIV/AIDS Related Discrimination in Delivery of Healthcare:**

- Refusal of treatment
- Inappropriate treatment
- Physical isolation in wards
- Early discharge
- Delays in treatment
- Conditional treatment

- Prejudicial comments and behavior

### **Duty to Treatment:**

- Articles 31 and 32 of the Constitution Bangladesh guarantee right to life and liberty, which covers right to health.
- As per legal provision, state healthcare institutions/providers are obliged to provide medical treatment to all persons in emergency and non-emergency situation without discrimination.
- The fundamental rights guaranteed by Articles 27, 31 and 32 of the Constitution and fundamental principals of state policy mentioned in articles 15 and 18 may be interpreted with a view to seek court intervention in cases of discrimination against persons suffering from HIV/AIDS.

### **Non-discrimination Provision in the Constitution of Bangladesh:**

- Article 26: Laws contrary to fundamental rights guaranteed in the Constitution are void.
- Article 27 : Equality of all citizens;
- Article 28: Non-discrimination;
- Article 29 : Equality in public jobs;
- Article 31: Protection of law for all, including body, reputation and property.

## **Sex Workers:**

The response to prostitution by many countries is often similar to that of drug use. The state may seek to wipe out or punish the business through the arm of the law. Yet no society has ever been able to wipe out the “oldest profession in the world”.

There are approximately 170,000 sex workers in Bangladesh, in addition to some 13,000 child sex workers (male and female). On average, female sex workers serve three clients per day and they are often pressurized into unprotected sex and are frequent targets for rape and sexual violence.

## **Legal Status of Sex Work in Bangladesh**

The existing legislation in Bangladesh neither prohibit nor recognize sex work (the legal term is prostitution). Even in the ruling of the High Court it is recognized as a ‘profession.’

The laws which are related to this are: the Constitution of the country; Penal Code; Suppression of Immoral traffic Prevention Act, 1933 (now repealed); Oppression on Women and Children Prevention Act, 2000, and ordinances of different metropolitan police.

The article 18 of the Constitution provides that the state shall take effective measures to prevent ‘prostitution.’ But it does not prohibit it.

The different sections of the Penal Code (especially from 372 to 376) have penalized different elements of sex work: abduction, forced engagement in ‘prostitution,’ rape, adultery etc but not self ‘prostitution.’

The Oppression on Women and Children Prevention Act, 2000 also does not prohibit ‘self prostitution.’ It penalizes crimes related to transportation, abduction, hire, sale, buy and confine any women/children with a view to engaged in ‘prostitution,’ living on the earning of the profession etc. The penalty is death sentence or life imprisonment or imprisonment upto 20 years and not less than 10 years.

The Police Ordinances also does not prohibit or penalize ‘self prostitution.’ It penalizes activities relating to soliciting for clients in public places, public nuisance etc.

Again there is no legal provision to take sex work as a 'profession.' Any adult woman can come to the line by making an affidavit with the 1<sup>st</sup> Class Magistrate or Notary Public, which is mistakenly, understood as the 'license.' The basis of this is a circular of the Ministry of Home Affairs. Legally, it can not be called a 'license' as it does not create any rights and security for its holder. On the contrary, this provision is helping exploiters of the 'sex work.' As it expresses that the woman voluntarily takes the work and she is not below 18 (but reality is that even minors are engaged).

### **Problems Faced by the Sex Workers**

- Harassment by the law enforcing agencies
- Social discrimination
- Lack of control over body, life and profession
- Insecurity
- Vulnerability to STDs, HIV and AIDS.

### **'Hijra' (hermaphrodites):**

The 'hijra' comprise a particular subculture within Bangladesh. They define themselves as neither men nor women. Social 'separation' means they are less likely to be reached by awareness campaigns.

### **Streets Children:**

An estimated 300,000 children either earn their living on the streets, or actually 'live' on the street. Some 13,000 of those are believed to earn their living through prostitution.

### **Professional Blood Donors:**

There are an estimated 35,000 Professional Blood Donors in Bangladesh. Many are also laborers, rickshaw pullers or are homeless. A high percentage are known to engage in pre, or extra-marital sex and many are suspected of being drug users. More than 100,000 people are known to be infected yearly with hepatitis B and syphilis, as a result of blood transfusions.

### **Men Having Sex with Men (MSM):**

In all societies around the world, MSM are believed to comprise about 5% to 10% of all sexually active males. However, MSM do not fit a regular profile and represent a diverse group. They may be married, “bisexual” . Some may engage in sex with other men frequently, others only occasionally. In some all-male institutions, such as the military and prisons, male to male sex can be common. MSM represent a group vulnerable to HIV infection. Unprotected anal sex comes a high risk of HIV infection for the receptive partner. In many developed countries, sex between men accounts for the bulk of HIV infections.

MSM are not a well defined group in most countries in the region. There is often little knowledge about the structure and patterns of MSM groups. There should be an awareness that such practices continue. Very often, Governments and societies deny that MSM exist in their countries and thus refuse to support appropriate prevention work.

### **Why is MSM Vulnerable to HIV/AIDS:**

- Stigmatized Group
- Engaging in risk behavior.
- Multiple Partners.

- Denial of Healthcare and safer sex education benefits due to existing laws and society's attitude to homosexuality

### **Laws that create impediments to intervention and outreach amongst MSM:**

As the Penal Code provides penalties:

- Section 377- Carnal Intercourse
- Section 268- Public Nuisance
- Section 292- Obscenity
- Section 107- Abatement

### **Injecting Drug Users:**

Drug injection is a global phenomenon that cuts across cultures. It has been closely tied to the spread of the epidemic, particularly in the Region. The sharing of contaminated needles is a highly efficient means of spreading HIV. There have been explosive epidemics among injecting drug users in many countries. Currently believed to be low, but is a growing problem in Bangladesh.

### **Drug Use:**

- Injection Drug User Vulnerable to HIV,
- Stigmatized by Society,
- Drug use is criminalized by law
- Otherwise IDUs very poor
- No access to resources – economic-legal-information

## **Harm Reduction Strategies**

### **Include giving IDUs:**

- Information on how they can prevent HIV infection
- Outreach services in their own communities;
- Access to sterile injecting equipment,
- Drug detoxification and treatment programs

## **Migrant Workers and Truck Drivers**

Most of those officially recorded, as being HIV positive are Migrant Workers. The study notes the "risky sexual behavior" of truck drivers and their role in spreading the virus in other countries, although it warns against stigmatizing this group in any programs.

## **Section Three:**

### **Objective of the Session:**

- **Presentation on Legal, Ethical and Human Rights of PLWA+Vulnerable Group Issues.**

### **Content:**

#### **LAW:**

##### **Definition:**

Law is an aggregate of rules enforceable by judicial means in a country.  
(*Dictionary of English Law*)

##### **General Interpretation:**

Law means

- Rule of actions to which people is obliged to make their conduct;
- A command enforced by some sanction

- A principle of conduct observed habitually by an individual or a class.

### **Why is Law?**

- The Law creates corresponding rights and obligations.
- A set of rules that governs the way peoples behave in the society.

### **Sources of Law:**

Customs, Legislature (Parliament), Precedent (Decisions of higher courts) and Executive orders.

### **Classification of Law:**

Substantive and Procedural.

### **Different types of Law**

Constitutional Law

- How State is organized
- Fundamental rights of citizens
- Supremacy of law

### **Statutory Law**

- Laws Made by Parliament / Legislatures

### **Common Law**

- Comes from English Legal System
- Inherited through British rule

### **Customary Law**

- Developed from the customs of different community [In existence from time immemorial (atleast 30 years) without any interval and intervention]

### **Personal Law**

- Applicable to a person on the basis of his/her religion

### **Criminal Law**

- For regulating one's behavior in the society.  
(The Code of Criminal Procedure)

### **Civil Law**

- For regulating one's behavior in private relationships.  
(The Code of Civil Procedure)

## **Constitution of Bangladesh**

- Bangladesh has a written Constitution.
- The Constitution is the supreme law of the country.
- The Constitution ensures participation of women in national life (Article 10); democracy and human rights (article 11); provision of basic necessities of life, including food, clothing, shelter, education and medical care (Article 15); free and compulsory education (Article 17); public health and morality (Article 18); equality of opportunity (Article 19); work as a right and duty (Article 20); various fundamental rights (Article 27-44) etc.
- The State in Bangladesh is based on the doctrine of separation of powers among the legislature, executive and the judiciary.
  - Legislature- Makes Laws
  - Executive- Executes Laws
  - Judiciary- Enforces and interprets the laws

## **Human Rights:**

Those rights, which are inherent in our nature and without which we can not live as human being. Human rights and fundamental freedoms allow us to fully develop and use our human qualities, intelligence, talents and conscience and to satisfy our spiritual and other needs. They are based on mankind's increasing demand for life in which inherent dignity and worth of each human being will receive respect and protection.

The concept of human rights developed over the years through thinking of conscious personalities. An international standardization of human rights has been made through the International Bill of Rights:

Universal Declaration of Human Rights, 1948; International Covenant on Civil and Political Rights, 1966 and Optional Protocol, 1977; and International Covenant on Economical, Social and Cultural Rights, 1966.

## **Character of Human Rights:**

They are universal. Every one is entitled to enjoy all the rights and freedoms set forth in the Universal Declaration of Human Rights, 1948, without discrimination of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, poverty, birth or other status.

## **Important Human Rights:**

Born free and equal in dignity and rights; right to life, liberty and security of person, self recognition, equality before law, freedom of movement, nationality, thought and opinion; protection from slavery or servitude, torture or cruel, inhuman or degrading treatment, arbitrary arrest or detention etc.

### **Legal and Fundamental Rights:**

When a human right is recognized by the law (other than the Constitution) of a country it becomes legal right for the citizen of the concerned country. On the other hand, when a human right is recognized by the constitution of a country it (the right) becomes fundamental right for the citizen of the said country.

### **Fundamental Rights Recognized in the Constitution of Bangladesh** (Excerpts from the Constitution)

#### **● Article-27: Equality before law**

- All citizens are equal before law and are entitled to equal protection of law

#### **● Article 28: Non-discrimination on grounds of religion, etc.**

(1)The State shall not discriminate against any citizen on grounds only of religion, race caste, sex or place of birth.

(2)Women shall have equal rights with men in all spheres of the State and of public life.

(3)No citizen shall, on grounds only of religion, race, caste, sex or place of birth be subjected to any disability, liability, restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution.

(4) Nothing in this article shall prevent the State from making special provision in favour of women or children or for the advancement of any backward section of citizens.

● **Article 29: Equality of opportunity in public employment**

- (1) There shall be equality of opportunity for all citizens in respect of employment or office in the service of the Republic.
- (2) No citizen shall, on grounds only of religion, race, caste, sex or place of birth, be ineligible for, or discriminated against in respect of, any employment or office in the service of the Republic.
- (3) Nothing in this article shall prevent the State from -
- (a) Making special provision in favour of any backward section of citizens for the purpose of securing their adequate representation in the service of the Republic;
  - (b) Giving effect to any law which makes provision for reserving appointments relating to any religious or denominational institution to persons of that religion or denomination;
  - (c) reserving for members of one sex any class of employment or office on the ground that it is considered by its nature to be unsuited to members of the opposite sex.

● **Article 31: Right to protection of law**

To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law.

● **Article 31: Protection of right to life and personal liberty.**

No person shall be deprived of life or personal liberty save in accordance with law.

● **Article 33: Safeguards as to arrest and detention.**

- (1) No person who is arrested shall be detained in custody without being informed, as soon as may be of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice.
- (2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the magistrate, and no such person shall be detained in custody beyond the said period without the authority of a magistrate.
- (3) Nothing in clauses (1) and (2) shall apply to any person-
  - (a) who for the time being is an enemy alien; or
  - (b) who is arrested or detained under any law providing for preventive detention.
- (4) No law providing for preventive detention shall authorise the detention of a person for a period exceeding six months unless an Advisory Board consisting of three persons, of whom two shall be persons who are, or have been, or are qualified to be appointed as, Judges of the Supreme Court and the other shall be a person who is a senior officer in the service of the Republic, has, after affording him an opportunity of being heard in person, reported before the expiration of the said period of six months that there is, in its opinion, sufficient cause for such detention.
- (5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order.
- (6) Parliament may by law prescribe the procedure to be followed by an Advisory Board in an inquiry under clause (4)].

● **Article 34: Prohibition of forced labour.**

- (1) All forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
- (2) Nothing in this article shall apply to compulsory labour.
  - (a) by persons undergoing lawful punishment for a criminal offence; or

(b) required by any law for public purpose.

● **Article 35: Protection in respect of trial and punishment.**

(1) No person shall be convicted to any offence except for violation of al law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than, or different from that which might have been inflicted under the law in force at the time of the commission of the offence.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) Every person accused of a criminal offence shall have the right to a speedy and public trial by an independent and impartial court or tribunal established by law.

(4) No person accused of any offence shall be compelled to be a witness against himself.

(5) No person shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment.

(6) Nothing in clause (3) or clause (5) shall affect the operation of any existing law, which prescribes any punishment or procedure for trial.

● **Article 36: Freedom of movement.**

Subject to any reasonable restrictions imposed by law in the public interest, every citizen shall have the right to move freely throughout Bangladesh, to reside and settle in any place therein and to leave and re-enter Bangladesh.

● **Article 37: Freedom of assembly.**

Every citizen shall have the right to assemble and to participate in public meetings and processions peacefully and without arms, subject to any reasonable restrictions imposed by law in the interests of public order health.

● **Article 38: Freedom of association.**

Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interests of morality or public order;

● **Article 39: Freedom of thought and conscience, and of speech.**

(1) Freedom of thought and conscience is guaranteed. Freedom of thought and conscience, and of speech.

(2) Subject to any reasonable restrictions imposed by law in the interests of the security of the State, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence-

(a) The right of every citizen of freedom of speech and expression; and

(b) Freedom of the press is guaranteed.

● **Article 40: Freedom of profession or occupation.**

Subject to any restrictions imposed by law, every citizen possessing such qualifications, if any, as may be prescribed by law in relation to his profession, occupation, trade or business shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business.

● **Article 41: Freedom of religion.**

(1) Subject to law, public order and morality-

(a) Every citizen has the right to profess, practice or propagate any religion;

(b) Every religious community or denomination has the right to establish, maintain and manage its religious institutions.

(2) No person attending any educational institution shall be required to receive religious instruction, or to take part in or to attend any religious ceremony or worship, if that instruction, ceremony or worship relates to a religion other than his own.

● **Article 42: Rights to property.**

(1) Subject to any restrictions imposed by law, every citizen shall have the right to acquire, hold, transfer or otherwise dispose of property, and no property shall be compulsorily acquired, nationalized or requisitioned save by authority of law.

<sup>20</sup>[(2) A law made under clause (1) shall provide for the acquisition, nationalization or requisition with compensation and shall either fix the amount of compensation or specify the principles on which, and the manner in which, the compensation is to be assessed and paid; but no such law shall be called in question in any court on the ground that any provision in respect of such compensation is not adequate.

(3) Nothing in this article shall affect the operation of any law made before the commencement of the Proclamations (Amendment) Order, 1977 (Proclamations Order No. I of 1977), in so far as it relates to the acquisition, nationalization or acquisition of any property without compensation.]

● **Article 43: Protection of home and correspondence.**

Every citizen shall have the right, subject to any reasonable restrictions imposed by law in the interests of the security of the State, public order, public morality or public health-

(a) to be secured in his home against entry, search and seizure; and

(b) to the privacy of his correspondence and other means of communication.

● **Article 44: Enforcement of fundamental rights.**

(1) The right to move the High Court Division in accordance with of article 102 for the enforcement of the rights conferred by this Part of guaranteed.

(2) Without prejudice to the powers of the High Court Division under article 102, Parliament may empower any other court, within the local limits of its jurisdiction, to exercise all or any of those powers.

**Voice on Stigma and Discrimination and Human Rights on HIV/AIDS**

The slogan of the two years (2002-2003) world AIDS campaign – “Live and Let Live”, will focus on stigma and discrimination.

The main objective of the campaign is to prevent, reduce and eliminating HIV/AIDS related stigma and discrimination, wherever it occurs and in all its forms.

The key messages include:

- \* Stigma and discrimination are the major obstacles to effective HIV/AIDS prevention and care.
- \* Stigma and discrimination violate basic human rights and thus should be prevented, eliminated or reduced.
- \* Stigma and discrimination reinforce silence about the HIV/AIDS epidemic.
- \* Stigmatizing and discriminating the high risk group will isolate these populations further and prevent them from accessing information and health care service.
- \* Stigma hurts, it can have harmful effects on people's perceptions of themselves.
- \* Involvement of people living with HIV/AIDS is central to eliminating stigma and discrimination & thereby reducing the impact of the epidemic.
- \* Ostracizing people living with HIV/AIDS (PLWA) and restricting their daily life can inhibit their access to society and hamper their prospects for decent livelihood.
- \* Stigma and discrimination affect the capacity of societies to respond constructively to the devastation caused by the epidemic.

**Remedies:**

**Writ Petitions** (Article 102 and 44 of the Constitution)

In respect of violation of fundamental rights: right to life, liberty and privacy (Guaranteed in Articles 32, 33 and 43) remedy may be seek in the High Court.

**Civil Suit** (In civil courts)

Breach of confidentiality giving rise to actions for damages, injunction etc.

**State Obligation:**

It is the duty of the state to provide for health facilities to all including children. However, in countries like Bangladesh majority of the population live below the poverty line, where there is a lack of safe drinking water, lack of food and lack of health care and medication, it becomes imperative to Impart Information on how they should Protect themselves.

**Declaration of Commitment on HIV/AIDS and Human Rights**

United Nations General Assembly Special Session on HIV/AIDS June, 2001

Relevant Article:

59. By 2005, bearing in mind the context and character of the epidemic and that globally women and girls are disproportionately affected by HIV/AIDS, develop and accelerate the implementation of national strategies that: promote the advancement of women and women's full enjoyment of all human rights; promote shared responsibility of men and women to ensure safe sex; empower women to have control over and decide freely and responsibly on matters related to their sexuality to increase their ability to protect themselves from HIV infection;

60. By 2005, implement measures to increase capacities of women and adolescent girls to protect themselves from the risk of HIV infection, principally through the provision of health care and health services, including sexual and reproductive health, and through prevention education that promotes gender equality within a culturally and gender sensitive framework;

61. By 2005, ensure development and accelerated implementation of national strategies for women's empowerment, promotion and protection of women's full enjoyment of all human rights and reduction of their vulnerability to HIV/AIDS through the elimination of all forms of discrimination, as well as all forms of violence against women and girls, including harmful traditional and customary practices, abuse, rape and other forms of sexual violence, battering and trafficking in women and girls.

## Section Four:

### **Objective this Session:**

**- Understand participant to Role of Media to Promote and Protect Rights of the Vulnerable Communities**

Content:

### **MEDIA**

Print Media

Electronics Media

## Traditional Media

### Role of Media

- Creating Awareness of everyone's risks of Contracting HIV
- Increasing Knowledge about how the Virus is and is not Spread
- Developing understanding of the underlying causes and consequences of the epidemic
- Creating a Supportive Environment in which people with HIV and AIDS can live in dignity with full protection of their Human Rights
- Advocating appropriate individual and community responses to the problem

### Responsibilities of Media

- Being Accurate
- Respecting Privacy
- Being Relevant
- Avoiding Sensationalism

## HIV/AIDS and Human Rights related Journalism

- Sympathetic Journalism
- Emphatic Journalism

## Rights of Vulnerable Communities

- Liberty
- Freedom of Movement
- Equal Protection of Law
- Privacy
- Self Determination
- Rights to Marry
- Rights to Health Care
  - Shelter/ Housing Rights
- Rights to Education
- Rights to Work
- Ensure Social Security

## Emphatic Journalism:

### Role of Print Media

- Positive & Responsive Reporting
- Emphatically Feature/Article/Case Study

- Emphatically Editorial/Sub- Editorial
- Positively Letter Published
- Create Public Opinion
- Message Disseminations/Interview

## Role of Electronics Media

- Produced and Telecast Feature/ Drama/Talk Show
- Arrange and Telecast Discussion
- Telecast Expert/GO/NGO's Opinion
- Interview Civil Society/ Human Rights  
Activist/Intellectual/ Star Personality
- Positive Coverage
- Message Disseminations

**Schedule for Interactive Meeting**  
**Media Campaign for Legal, Ethical and Human Rights of the Vulnerable Group Related to HIV/AIDS**

<b>Time</b>	<b>Contents</b>	<b>Methods</b>
9.00- 9.30 am	Registration	-
9.30- 10.00 am	Introduction	Opening Session
10.10- 10.30 am	Objective of the Workshop	TS Presentation
10.30- 11.00 am	Tea Break	-
11.00- 12.00 pm	HIV/AIDS: Global, Regional and Bangladesh Situation	TS/OHP/PT
12.00- 1.00 pm	Vulnerable Group Analysis	Participatory/TS/OHP
1.00- 2.00 pm	Launch	-
2.00- 3.00 pm	Law, Ethics, Human Rights of the PLWA+ Vulnerable	Legal Issue-based Group

	Group	work
3.00- 3.15 pm	Tea-break	-
3.15-4.00 pm	Media Campaign	Example Sharing/Life Story/Report Writing
4.00-4.30	Closing	-