

# Toolkit : Scaling Up HIV-Related Legal Services



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### United Nations Development Programme (UNDP)

The United Nations Development Programme (UNDP) is the largest development agency in the world, working in 166 countries. UNDP recognizes that addressing HIV is integral to achieving the Millennium Development Goals. As a Cosponsor of UNAIDS and as the lead agency on human rights and law, UNDP focuses on enabling legal environments, stigma reduction, addressing inappropriate criminalization, access to justice, gender – including sexual minorities, and human development. Visit the UNDP website at [www.undp.org](http://www.undp.org)

## PREFACE

This Toolkit has been developed through a joint initiative of IDLO, UNAIDS and UNDP.

The content of this Toolkit was informed by the International Expert Meeting on Strengthened and Expanded Legal Services for People Living with HIV and Vulnerable Groups convened in Rome, 3-6 May 2009 by IDLO, UNAIDS and UNDP.

The Toolkit was also presented in draft form at the seminar on Strengthened and Expanded HIV Legal Services held at the International Congress on AIDS in Asia Pacific, Bali, 8 August 2009, convened by IDLO, UNAIDS, UNDP and the Asia Pacific Network of People Living with HIV/AIDS (APN+). The responses of seminar participants to the draft Toolkit were incorporated into the final version of the Toolkit.

## ACKNOWLEDGEMENTS

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Financial support was provided by the OPEC Fund for International Development (OFID). OFID is the development finance institution of OPEC member states, established to provide financial support for socio-economic development, particularly in low income countries.





## FOREWORD

It is a pleasure and an honour to contribute a few paragraphs to mark the appearance of this important and useful new tool from IDLO, UNAIDS and UNDP. As a judge who came to the Bench from legal practice, I have some professional experience of how important HIV-related legal services are. But as an African living with HIV on the continent worst-affected by the epidemic I speak also with deep personal knowledge of what the law and proper access to it can do to mitigate the harsh effects of AIDS.

Our talk of human rights protections in the epidemic will remain empty unless we can back it up by ensuring that those whose rights are violated and who experience discrimination because of HIV get good, effective access to legal services. And that should include appropriate legal information, advice and representation.

With good legal information and advice, those affected by the epidemic – those living with HIV and AIDS, and their loved ones – have at least some means to deal with threats to their jobs, homes, social security entitlements, physical security, privacy and dignity. But without legal information and advice, they are immeasurably more vulnerable than a potentially deadly disease, one more stigmatized than possibly any other disease in history, already makes them.

Countries and communities that have made best progress in combating the harsh effects of AIDS are those where networks of people living with HIV and affected communities have known their legal and human rights and have been able to assert them.

Activism by those living with HIV and their supporters has played a vital part in gaining access to the justice system. And affordable legal services is often the key to successful activism.

So this Toolkit is very welcome. Its contents reflect its drafters' deep personal experience of the epidemic. It is clear and sensible, and full of good advice and suggestions. And it provides much-needed practical guidance for organizations seeking to plan, fund, implement and expand HIV-related legal services programmes.

I warmly commend the Toolkit to all organizations, governments and donors interested in such programmes. My hope, which all those who contributed to the Toolkit share, is that it will help expand these services in the communities most in need of them. We desperately need such expansion for a just and effective response to HIV.

**Edwin Cameron**  
Constitutional Court of South Africa

## GLOSSARY OF ACRONYMS AND TERMS

AIDS	Acquired Immunodeficiency Syndrome
ARVs	Antiretroviral drugs
AusAID	Australian Agency for International Development
CBO	Community-based organization
DFID	United Kingdom Department for International Development
GIPA	Greater involvement of people living with HIV and AIDS
Global Fund	Global Fund to Fight AIDS, Tuberculosis and Malaria
HIV	Human Immunodeficiency Virus
ICASO	International Council of AIDS Service Organizations
ICTC	International Centre for Technical Cooperation on HIV/AIDS
IDLO	International Development Law Organization
ILO	International Labour Organization
NGO	Non-governmental organization
OHCHR	Office of the High Commissioner for Human Rights
OSI	Open Society Institute
PEPFAR	President's Emergency Plan for AIDS Relief
PMTCT	Prevention of mother to child transmission of HIV
SIDA	Swedish International Development Agency
STIs	Sexually transmitted infections
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNGASS	United Nations General Assembly Special Session
UNICEF	United National Fund for Children
USAID	United States Agency for International Development

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## NOTE ON TERMINOLOGY

### **Use of the term 'key populations'**

In this toolkit the term 'key populations' refers to populations that are at higher risk because of increased risk of acquiring HIV and/or increased vulnerability to HIV infection or impact. This term also emphasizes that these populations, while being important to the dynamics of HIV transmission in a setting, are essential partners for an effective response to the epidemic.

In this context, 'risk' is defined as the probability that a person may acquire HIV. Certain behaviours create, enhance and perpetuate risk. Examples include unprotected sex with a partner whose HIV status is unknown, having multiple unprotected sexual partners and injecting drug use with contaminated needles and syringes.

'Vulnerability', on the other hand, results from a range of factors that reduce the ability of individuals and communities to avoid HIV infection. These may include personal factors such as the lack of knowledge and skills required to protect oneself and others, factors relating to the quality and coverage of services, including the cost of services, and social factors such as social and cultural norms, practices, beliefs and laws that stigmatize and disempower certain populations. These factors, alone or in combination, may create or exacerbate individual vulnerability and, as a result, collective vulnerability to HIV.

Identifying the populations that are most vulnerable to HIV, and reaching these populations with appropriate HIV prevention, treatment, care and support, is critical to the success of HIV responses. For further information about the use of this terminology, see the *Practical guidelines for intensifying HIV prevention*.<sup>1</sup>

### **Use of the term 'people affected by HIV'**

In this toolkit, 'people affected by HIV' refers to people directly affected by HIV but who are not living with HIV, such as domestic partners and family members of people living with HIV and children orphaned by AIDS.

<sup>1</sup> UNAIDS (2007). *Practical guidelines for intensifying HIV prevention*. Geneva, UNAIDS. Available at [http://data.unaids.org/pub/Manual/2007/20070306\\_prevention\\_guidelines\\_towards\\_universal\\_access\\_en.pdf](http://data.unaids.org/pub/Manual/2007/20070306_prevention_guidelines_towards_universal_access_en.pdf).

# 1. Introduction



Photo credit: UNAIDS/P.Virot

## WHO IS THIS TOOLKIT FOR?

This toolkit is for people working to establish, strengthen or expand HIV-related legal services.

The toolkit is primarily for:

- Lawyers, legal service managers and other staff involved in delivering legal services for people living with HIV, people affected by HIV and key populations.
- People planning to establish or expand HIV-related legal services and those involved in preparing proposals to funders. This may include networks of people living with HIV, HIV-focused organizations and organizations that are providing other services to people living with HIV, people affected by HIV and key populations.

The toolkit is also for government staff, funders, technical support providers and organizations, including donors and United Nations agencies, that are engaged in the planning of legal services as a component of national HIV responses.

## PURPOSE

The purpose of the toolkit is to provide a practical resource to help to improve the quality and impact of HIV-related legal services and to expand their availability. The toolkit provides guidance on factors to be taken into account when designing and scaling up an HIV-related legal services programme. It also provides guidance about different models and approaches for delivering, monitoring and evaluating HIV-related legal services and gives information about resource mobilization.

## BACKGROUND AND RATIONALE

HIV-related legal services are an essential component of an effective national HIV response. HIV-related legal services:

- 1 Protect and promote the human rights of people living with HIV, people affected by HIV and key populations.
- 2 Are essential to ensure good public health and development outcomes.

HIV-related legal services contribute directly to building an enabling environment for effective HIV programmes. Legal services help to ensure access to HIV prevention, treatment, care and support services. Legal services enable people to claim and enforce their rights to access HIV services and thereby create demand for access to HIV services.

Legal services provide concrete solutions to legal and social problems that create or arise from vulnerability to HIV. Strengthening HIV-related legal services enables people who are socially marginalized to have access to the justice system for HIV-related problems and to obtain protection and redress.

Examples of how legal services can support HIV prevention, treatment, care and support include the following.

**HIV prevention:**

- Police behaviour can make HIV prevention efforts more difficult by driving key populations away from HIV prevention and testing services. Legal services can counteract illegal police behaviour in the context of law enforcement, such as harassment, discrimination, violence, arbitrary arrest and rape, of those vulnerable to or affected by HIV, such as sex workers, men who have sex with men, transgender people and people who use illicit drugs.
- The availability of legal protection for women and girls who fear domestic or community violence can prevent sexual assaults, which place women and girls at risk of HIV. Legal protection from violence can also mean that women and girls are in a stronger position to insist on condom use or to refuse sex.

**HIV treatment, care and support:**

- Legal services can help people living with HIV to access health services, income support and housing and deal with debt relief and end-of-life planning.
- Legal services can ensure that people living with HIV, sex workers, men who have sex with men, transgender people and people who use illicit drugs are not denied access to social and health services because of discriminatory attitudes or rules.
- Legal services can help people affected by HIV to claim legal rights to property and inheritance.
- Legal services can provide access to redress for HIV-related discrimination at work, in the provision of health care, in school and in access to services such as insurance. Such assistance is of direct benefit to the person affected by discrimination. It also creates a more supportive social environment, so that people can be tested and seek treatment, care and support without fear of discrimination.



**At the United Nations General Assembly Special Sessions on HIV/AIDS in 2001, Member States committed to:**

*“Enact, strengthen or enforce as appropriate legislation, regulations and other measures to eliminate all forms of discrimination against, and to ensure the full enjoyment of all human rights and fundamental freedoms by people living with HIV/AIDS and members of vulnerable groups; in particular to ensure their access to, inter alia education, inheritance, employment, health care, social and health services, prevention, support, treatment, information and legal protection, while respecting their privacy and confidentiality; and develop strategies to combat stigma and social exclusion connected with the epidemic.”*

(Declaration of Commitment on HIV/AIDS (2001) clause 58)

**This statement of commitment to human rights means little without access to affordable legal services.**

### THE IMPORTANCE OF SCALING UP HIV-RELATED LEGAL SERVICES

Existing HIV-related legal services are generally small in scale and in coverage. Achievement of universal access to HIV prevention, treatment, care and support requires an equal commitment to universal access to legal services. This is critically important given the high levels of social marginalization and of discrimination against people living with and affected by HIV and key populations. Legal services should be accessible and affordable to all communities affected by the epidemic. This requires an expansion of quality HIV-related legal services to improve the coverage of services, alongside efforts to expand access to HIV prevention, treatment, care and support services.

## 2. What are HIV-related legal services?

HIV-related legal services are legal services for people living with HIV, people affected by HIV and key populations that directly relate to legal issues that affect their vulnerability to HIV and/or increase the impact of HIV in their lives. They may be delivered in a variety of settings, for example in conjunction with HIV prevention, treatment, care and support services, in conjunction with other legal services addressing other needs (not necessarily HIV-related) or on a stand-alone basis.



Photo credit: UNAIDS/A.Gutman

### How do you know a legal problem is HIV-related?

Factors affecting vulnerability to HIV vary from community to community. Therefore, the nature of problems that may be considered to be HIV-related will also vary from community to community. Knowing the epidemic and response in the place where the services will be offered is critical to the design of the services.

For example, provision of advice about arrest rights to people who inject drugs may be considered an HIV-related service in countries or communities where HIV is present among people who inject drugs. Harm reduction services such as needle and syringe programmes may operate more effectively in communities where people who inject drugs are not fearful of police abuse of their legal rights.

The following guidance is used by an Australian HIV legal service to determine whether a problem is HIV-related. This is an example of a narrow definition. It requires the legal issue to be related to the client's HIV status, and therefore may not include many issues that increase risk or vulnerability to HIV. It is intended only as guidance for the service. A flexible approach is encouraged.

*“The HIV/AIDS Legal Centre is only funded to provide free legal services to people with HIV-related legal matters. A legal matter is HIV-related when it arises out of or is related to your HIV status. This may include being denied a job because of your HIV status or making plans for your medical treatment which may arise in the future because of your HIV status. Examples of legal matters that are not HIV-related include an HIV positive person being involved in a car accident or an HIV positive person being charged with theft.”*

HIV/AIDS Legal Centre Inc. (Australia) (see <http://www.halc.org.au>).

## CORE LEGAL SERVICES AND ADDITIONAL LEGAL SERVICES

It can be helpful to distinguish core HIV-related legal services provided to individuals from additional services provided to communities and groups. A comprehensive package of HIV-related legal services will comprise some core legal services and some additional legal services. The mix of services provided to individuals, groups and communities should be appropriate to the context, based on the nature of the epidemic and the legal and social challenges it creates.

### Examples of legal issues that may be HIV-related

- Discrimination on the grounds of HIV status, sexual orientation, gender, including transgender status, HIV-related disability, illicit drug use or sex work.
- Problems in accessing treatment, care and support services.
- Problems involving breaches of privacy and confidentiality.
- Violence against women, people living with HIV, men who have sex with men, transgender people, sex workers and other key populations.
- Domestic disputes where one party is living with HIV or is affected by HIV (e.g. child custody, maintenance and property division laws).
- Guardianship and identifying caregivers for orphaned children.
- Forced sterilization or forced abortion.
- Criminal laws concerning HIV transmission.
- Criminal laws that affect sex workers, men who have sex with men, transgender people and people who use illicit drugs.
- Illegal police practices, including harassment, rape, violence, arbitrary arrest and extortion.
- Sentencing and prisoners' rights (including access to condoms, prevention education and HIV treatment).
- Partner notification and contact tracing.
- Employment issues, including discrimination and sick leave entitlements.
- Land tenure rights, tenancy and housing.
- Property and inheritance.
- Right to education and regulation of educational curricula.
- Public health laws and right to informed consent for testing and treatment.
- Censorship and media standards.
- Identification papers, birth and death registration, drug user registration.
- Drug patents and right to access affordable medicines.
- Children's rights, for example to consent, confidentiality, care and treatment.
- Asylum, refugee status, migration laws and freedom to travel.
- Forced 'treatment' under substandard conditions.
- Rights of research subjects.

### Core legal services

Core legal services are those services that are essential to ensure that an individual's legal rights can be secured and enforced. Core legal services generally focus on providing legal advice, representing individuals in court or settlement, seeking redress or resolving disputes for individuals.

Core legal services include:

#### 1 Legal information and referral

Information about legal rights can be provided to individuals in pamphlets, by telephone, on the Internet or in person. A person with a legal problem may be referred to different sources for legal support, including private lawyers, government legal aid offices or legal services provided by nongovernmental organizations.

#### 2 Legal advice

Legal advice is usually provided to individuals by a lawyer, or in some cases by a paralegal. Depending on the service, advice may be in relation to civil or criminal cases. Some services provide advice for people who have been arrested or charged with a crime.

#### 3 Legal representation

Representation may include written and oral advocacy, negotiation of disputes and preparation of documents. It can take place in a range of formal and informal settings, including litigation (courts), settlement, conciliation, arbitration and mediation.

Alternative dispute resolution such as arbitration, conciliation and mediation is often cheaper, faster and simpler than going to court.

Representation can also be provided in the context of informal, traditional or religious legal systems. Some legal models build on traditional systems of justice that rely on elders, religious leaders or other community figures to help to resolve conflict. These models are often more easily approached, as well as less costly and lengthy, than formal court systems.

Court proceedings can be conducted to resolve an individual's dispute or to set a precedent that benefits other people in similar circumstances to that individual. Test cases or 'strategic litigation' may be conducted to establish a new legal rule, to clarify the application of the law or to address a discriminatory policy or practice.<sup>2</sup> Test cases can be complex, risky and costly, and require a high level of expertise. Some legal services may wish to refer test cases for more specialized legal advice.

### **Additional legal services**

Additional legal services that are supportive of and supported by the core legal services described above include legal and human rights education, legal research, monitoring, law reform and advocacy activities. These activities have the potential to significantly increase the uptake, as well as the social impact, of a legal service programme.

These additional legal services may include:

- 1 Education of people living with and affected by HIV and key populations about their legal and human rights ('legal literacy' and empowerment programmes). This is essential to ensure that those accessing legal services include people who otherwise might not know that their legal and human rights have been infringed or how to enforce their rights.
- 2 Education of lawyers, paralegals, judiciary, nongovernmental organizations, prosecutors and police about HIV, human rights and the law as well as effective provision of HIV-related legal services.
- 3 Education of the media, health-care workers, employers, trade unions and other groups about HIV, human rights and the law.
- 4 Research on trends of HIV-related legal cases, including the monitoring and documentation of human rights violations.
- 5 Advocacy and campaigning on policy and law reform issues, or for changes to practices and increased resources. This may include drafting model laws and providing input to law reform processes.

These services are generally provided by lawyers, paralegals, legal researchers, campaign officers and educators who have legal training.

<sup>2</sup> UNAIDS, Canadian HIV/AIDS Legal Network (2006). *Courting rights: case studies in litigating the human rights of people living with HIV*. Geneva, UNAIDS. Available at [http://data.unaids.org/pub/Report/2006/jc1189-courtingrights\\_en.pdf](http://data.unaids.org/pub/Report/2006/jc1189-courtingrights_en.pdf).

**Figure 1** WHAT ARE HIV-RELATED LEGAL SERVICES?



Figure 1 presents a model of legal services. The circle in the middle represents the core activities that HIV legal services comprise. These activities ensure that people living with HIV, people affected by HIV and key populations can claim and enforce their legal rights. The outer circles represent additional activities, such as education, law reform, advocacy and research, that will help to create legal and human rights literacy, generate demand for legal services, ensure that legal services reach the most marginalized and provide an enabling environment for HIV prevention, treatment, care and support programmes.

It is rare that a single organization will have the capacity to provide all of the services described above. Figure 1 shows that there are a number of important activities that operate alongside each other that together increase the uptake of such services and that create an enabling legal environment for an effective HIV response.

**Figure 2 HIV-RELATED LEGAL SERVICE ACTIVITIES**

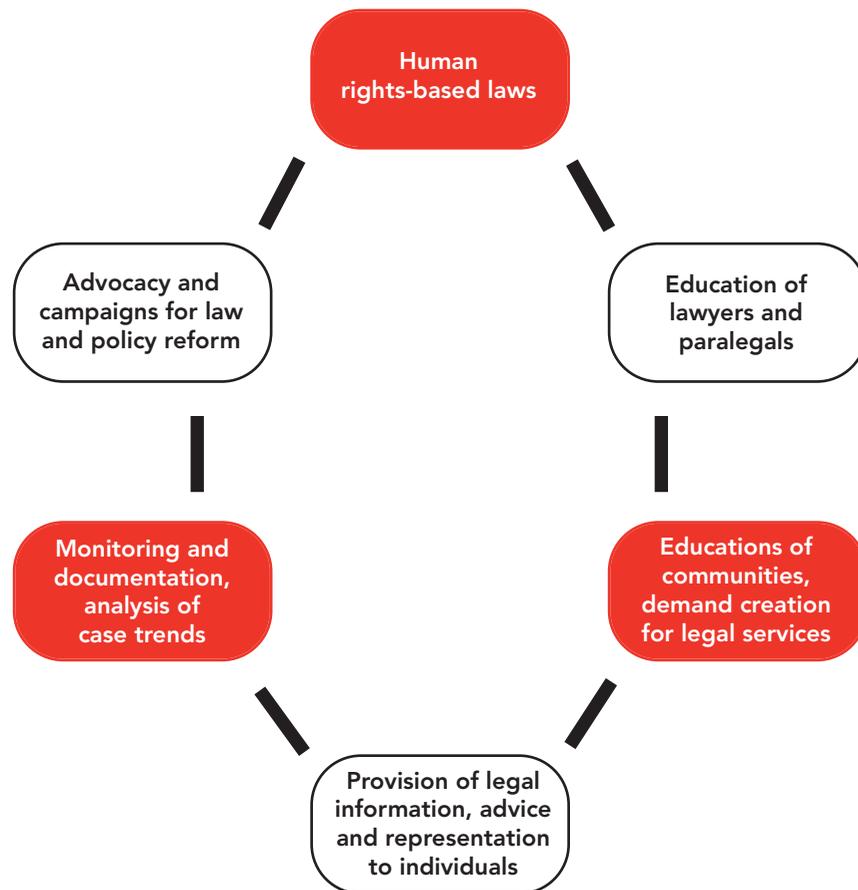


Figure 2 shows a cyclical relationship between the different activities of a comprehensive HIV-related legal service. This is an example of one of the many dynamic relationships between the activities of an HIV-related legal services programme and the social and legal context in which it operates. The diagram simplifies relationships in order to demonstrate the potential for connections to be made between different activities. In reality, relationships may be more complex.

Educating communities about their laws, human and legal rights and the legal system is important in order to ensure that people understand when their human and legal rights have been infringed and how they can access justice through courts, alternative dispute resolution or informal processes. Community legal education generates demand for legal services.

As more people seek access to justice, legal services are able to monitor trends in complaints and cases. This way, legal services can identify systemic issues that may be affecting broader sections of the community. For example, monitoring of cases may reveal patterns of discrimination. Case studies and analysis of trends can help to strengthen advocacy for improved laws, policies and practices. After protective laws are introduced as a result of successful campaigns, legal services have a role in educating the legal profession about changes to the law and about how to provide quality HIV-related legal services.

There are many variations in the order of and the interrelationship between the activities that a legal service may engage in, depending on the local circumstances. For example, in some instances law reform is not required because adequate laws already exist. The priority for legal services may be to have these laws enforced through the courts, rather than to change the law.

#### Case study: strategic litigation

Strategic litigation has altered the course of the HIV response in some places by securing rights to prevention, treatment, care and support services and raising public consciousness about HIV.

The Centre for Legal and Social Studies in Argentina, a human rights nongovernmental organization, represented two people living with HIV in 2002 who sought an order requiring the government to guarantee the supply of antiretroviral drugs. These medicines were not being made available by the Ministry of Health. The case was taken to court and the judge ordered the Ministry of Health to provide the medicines and to ensure supply of treatments to people living with HIV.

The following year, the Argentinean Network of People Living with HIV/AIDS published a report that showed that some treatments were still not available. The Centre for Legal and Social Studies took the case to court again. The court ordered the Ministry of Health to urgently ensure access to medicines. The case demonstrated that a single court victory was not enough. Ongoing activism was required before the government complied with the court order.

UNAIDS, Canadian HIV/AIDS Legal Network (2006). *Courting rights: case studies in litigating the human rights of people living with HIV*. Geneva, UNAIDS. Available at [http://data.unaids.org/pub/Report/2006/jc1189-courtingrights\\_en.pdf](http://data.unaids.org/pub/Report/2006/jc1189-courtingrights_en.pdf).

#### National human rights institutions: providing legal services and expanding access to justice

National human rights institutions that are engaged in the HIV response can provide legal services complementary to those provided by governments and nongovernmental organizations. They can be a strategic partner for other organizations providing HIV-related legal services. National human rights institutions are well positioned to make a unique contribution to a comprehensive and rights-based national response to HIV. As the independent, national body with a specific mandate to promote and protect human rights, a national human rights institution can advocate the inclusion of a human rights component in the national HIV plan.

The national human rights institution can assist rights holders, such as people living with HIV and key populations, to claim their rights to non-discrimination, HIV prevention and treatment, and freedom from sexual coercion and violence. It can also assist efforts to monitor progress towards universal access to HIV prevention, treatment, care and support—a part of the right to health and non-discrimination.

See: UNAIDS, Office of the High Commissioner for Human Rights (2007). *Handbook on HIV and human rights for national human rights institutions*. Geneva, UNAIDS. Available at: [http://data.unaids.org/pub/Report/2007/jc1367-handbookhiv\\_en.pdf](http://data.unaids.org/pub/Report/2007/jc1367-handbookhiv_en.pdf).

### 3. Guiding principles for HIV-related legal services

The following principles promote HIV-related legal services that support and respect the protection of human rights and that are ethical and effective.<sup>3</sup> It is recommended that legal services actively monitor compliance with these principles (see Section 7).

Respect for human rights is a fundamental cross-cutting principle.

#### CLIENT-CENTRED SERVICES

The principle of client-centred services is at the centre of legal service provision. It means that the objective of providing legal services is to enable the client to decide, with full information, how she or he wishes to deal with the problem and related issues for which the services or advice are provided. It is the client who should be empowered to decide how to utilize the legal services that the adviser or practitioner makes available. The individual needs, concerns and best interests of the client remain at the centre of everything that the adviser or practitioner does. Legal services will ensure that clients understand all their options so that they can make fully informed, independent decisions regarding their legal issues. This requires listening carefully and respectfully to clients' instructions. It also requires legal services to ensure that clients are able to communicate their instructions clearly. The assistance of interpreters may be required to ensure that clients can effectively communicate their instructions.

#### NOT-DISCRIMINATION

Legal services will not discriminate against clients or staff on the grounds of their HIV status, sex, sexual orientation, transgender status, disability, prisoner status or status as a member of a key population. People providing legal services will adopt a non-judgemental, welcoming attitude towards people living with HIV, people affected by HIV and key populations, including people who use illicit drugs, sex workers, men who have sex with men, transgender people and prisoners.

#### PARTICIPATION

Legal services will commit to ensuring the meaningful participation of people living with HIV, people affected by HIV and key populations in the planning, management, delivery and evaluation of the legal services programme.

#### GENDER EQUALITY

Legal services will promote equality of women, men and transgender people and will ensure that services are accessible, affordable and safe for all regardless of a person's sexual orientation or gender identity.

#### CONFIDENTIALITY

Legal services will respect individuals' rights to have their confidentiality protected and will not disclose sensitive personal information, including health status, to family members or other third parties without the consent of the person to whom the information relates.

<sup>3</sup> See also: NGO Code of Good Practice Committee (2004). *Code of good practice for NGOs responding to HIV/AIDS*. Available at <http://www.hivcode.org>.



Photo credit: UNAIDS/G.Pirozzi

### Key resources on HIV, the law and human rights

The human-rights-based approach to responding to HIV is described in: Office of the High Commissioner for Human Rights, UNAIDS (2006). *HIV/AIDS and human rights: international guidelines*. Geneva, Office of the High Commissioner for Human Rights. Available at <http://www2.ohchr.org/english/issues/hiv/guidelines.htm>.

Further guidance and case studies of human-rights-based law reform are provided in the following:

Inter-Parliamentary Union, United Nations Development Programme, UNAIDS (2007). *Taking action against HIV and AIDS*. Geneva, Inter-Parliamentary Union. Available at <http://www.ipu.org/PDF/publications/aids07-e.pdf>.

World Bank (2007). *Legal aspects of HIV/AIDS: a guide for policy and law reform*. Washington, DC, World Bank. Available at <http://siteresources.worldbank.org/INTHIVAIDS/Resources/375798-1103037153392/LegalAspectsOfHIVAIDS.pdf>.

### TRANSPARENCY AND ACCOUNTABILITY

Legal services will be transparent and accountable to the communities they serve. Communities affected by decisions on how legal services are provided will be able to contribute to discussions and decisions through appropriate consultation and representation on the governance bodies of services. Staff and communities affected by management decisions will be able to know who made the decisions and why they were made. Services will be systematically monitored and evaluated and the findings reported to staff, communities and funders.

### SUSTAINABILITY

Planning for the scale-up of HIV legal services will take into account the capacity of communities, governments and the legal profession to sustain the services in the future.



Courtesy of UNAIDS

### DO NO HARM

Legal services will consider the possible harms that an intervention might cause to individuals and communities, as well as the benefits. Legal services will not implement activities that cause more harm than good. Legal services should fully advise clients on the possible risks of a course of action and always proceed on the basis of their client's wishes. This should also involve securing all available protection where there are risks of harm involved.

#### Case study: Health Policy Initiative, Viet Nam

The Health Policy Initiative conducts a legal assistance project in Viet Nam that works in partnership with the Center for Consulting on Law and Policy in Health and HIV/AIDS, the Vietnam Lawyers Association and networks of people living with HIV. The initiative is funded by the United States Agency for International Development (USAID). The initiative provides legal education, outreach, advice, representation and a national legal advice hotline. Services are provided in five provinces. Each legal service has one full-time lawyer, two part-time lawyers, one support officer and four or five HIV-positive peer counsellors. Employing people living with HIV ensures that the services are responsive to the needs of clients and helps make people living with HIV feel comfortable seeking services.

The following are two examples of cases that have received assistance from the Health Policy Initiative's legal assistance project in Viet Nam.

##### Child's right to attend school

The client and his wife were both HIV-positive. Schoolteachers refused to let their child attend the school, due to objections from other parents. The teachers said the parents must produce an HIV test result, and only if the child was HIV-negative would the child be allowed to attend the school. The legal service arranged for a medical specialist to talk to the teachers and parents about HIV to help to alleviate unfounded fears. As a result, the child was allowed to go to the school.

##### Prisoner's rights

The client's son was an injecting drug user who had been sentenced to three years in prison. The son developed an HIV-related illness, with fever, weight-loss, a cough and a fungal infection. The law states that imprisonment can be deferred, so that prisoners living with HIV can seek treatment in the community. The legal service helped to prepare an application for release. The director of the prison board approved the application, and the son was transferred to the community for treatment.

Health Policy Initiative Viet Nam (2009). *Making policies work*.  
Available at <http://www.healthpolicyinitiative.com/index.cfm?id=news&year=2009>.

## 4. HIV-related legal service models

There are many different models for providing HIV-related legal services. Most services are developed in response to local factors, such as the access needs of the clients, the nature of the local formal and informal legal systems, police practices and the availability of funds, staff and volunteers.

Below are eight service models that are drawn from examples of services that operate in different settings.

In designing new legal services, elements of these models can be adapted to the local context. Communities should structure their services to respond to local conditions and create unique models.

In some settings, it may be more effective to integrate HIV into existing community-based legal aid services or human rights organizations, rather than establishing HIV-specific legal services. Some countries have well-established community-based legal aid services that address the priority legal needs of marginalized and poor communities. Such services may be well placed to address HIV in an integrated way with other services. For example, HIV can be integrated into existing legal services for women, rape survivors or homeless youth.

### Model 1. STAND-ALONE HIV-SPECIFIC LEGAL SERVICES

Stand-alone HIV-specific services are able to build up expertise in HIV-related legal issues and tailor services to the needs of local HIV-affected communities. This model may be appropriate in diverse settings and epidemics. In high HIV prevalence communities, legal services are likely to be a part of a broader network of HIV treatment, care and support services. In lower prevalence settings, legal services may be linked with nongovernmental organizations and community-based organizations working with key populations on a range of social, health and welfare issues.

#### Examples of HIV-related legal service models

- 1 Stand-alone HIV-specific legal services.
- 2 HIV legal services integrated into the government's legal aid agency.
- 3 HIV legal services integrated into the HIV organization or the harm reduction organization.
- 4 HIV legal services provided through community outreach.
- 5 HIV legal services integrated into an organization with a broader human rights focus.
- 6 HIV legal services provided by private sector lawyers on a pro bono basis.
- 7 HIV legal services provided by private lawyers on retainer to community-based organizations.
- 8 HIV legal services provided by a university law school.

Some examples are the following:

The Botswana Network on Ethics, Law and HIV/AIDS (BONELA) provides legal services, including advice, mediation and litigation. The legal aid centre is coordinated by a legal officer. The legal programme assists with discrimination cases, the preparation of wills and the administration of deceased estates. BONELA also serves as the secretariat for the National AIDS Council Sector on Ethics, Law and Human Rights, which is chaired by the Law Society of Botswana. The National AIDS Council Sector aims to facilitate respect for HIV-related human rights enshrined in the Constitution of Botswana and international human rights instruments (see <http://www.bonela.org>). The AIDS Law Project (ALP) is a South African human rights organization that seeks to influence,

develop and use the law to address the human rights implications of HIV. ALP uses advocacy, policy development and litigation to protect, promote and advance the rights of people living with HIV. ALP conducts research to assist with policy and law reform. ALP works in partnership with other human rights organizations, particularly the Treatment Action Campaign, to educate and train people about

the law and human rights. ALP has a focus on strategic litigation and has run successful test cases on a range of issues, including treatment rights, that have significantly improved the national HIV response (see <http://www.alp.org.za>).

**Case study: Tamil Nadu, India**  
**Partnership between the State AIDS Control Society, the government legal aid office and networks of people living with HIV**

The Tamil Nadu State AIDS Control Society, in partnership with the Tamil Nadu State Legal Services Authority and UNDP, operates legal aid services (referred to as 'clinics') at the district level. This programme built on the success of a pilot legal aid service opened in the Government General Hospital. Clinics provide legal advice to people living with HIV twice a week to address property and livelihood issues.

Each legal clinic has access to a lawyer, who provides legal advice and assists in preparing cases. Lawyers are empanelled from the pool of lawyers already sensitized through training by the Lawyers Collective HIV/AIDS Unit, a group of experts on HIV and legal rights in India. The project has a three-level structure:

- Block-level citizen vigilance groups, which make communities 'rights aware' and work in collaboration with the local network of people living with HIV.
- The legal clinics, which provide free legal advice, assistance and psychosocial support where required. Outreach workers mobilize people living with HIV to access services.
- The Rights Forum at the State AIDS Control Society, which provides expert guidance, monitors the work of the legal clinics at the district level and provides a multisectoral forum for addressing rights issues in the state.

Legal aid clinics were operating in five districts in 2009, and there are plans to extend the clinics to another 10 districts. All of the clinics function with lawyers provided by the State Legal Services Authority, one social worker and two outreach workers.

Mohan H (2007). Local governance and empowerment for sustainable HIV responses: experiences from India. *Governance of HIV/AIDS responses: conference papers*. University of Warwick, UK.

Legal aid clinics for HIV-positive people to open in 10 districts of Indian state. *The Hindu*, 14 January 2009. See [www.medicalnewstoday.com/articles/135370.php](http://www.medicalnewstoday.com/articles/135370.php) and [http://www.tn.gov.in/policynotes/pdf/health/aids\\_control\\_society.pdf](http://www.tn.gov.in/policynotes/pdf/health/aids_control_society.pdf).

**Model 2. HIV LEGAL SERVICES INTEGRATED INTO THE GOVERNMENT'S LEGAL AID AGENCY**

Governments can be effective providers of legal services. Mainstreaming HIV within the government's legal aid services, such as a public defender's office or a legal aid unit, can be a good strategy for sustainability and national scale-up. This model avoids creating parallel systems and promotes the accountability of governments to implement national and international human rights obligations.

However, many developing countries do not have a government legal aid agency or any legal aid system outside of nongovernmental organizations. Some countries limit government legal aid services to the representation of criminal defendants, which means that this model may not benefit people with other legal problems, such as family disputes or discrimination. Where the rule of law is not strong, marginalized populations may not have confidence in reporting problems such as discrimination to a government agency, especially if the complaint is against a government office. Communities need to have confidence that a government legal service is able to effectively represent people with complaints against the police, officials or government policy.

In countries with government legal aid services, the services may not be able to reach all populations. In such cases, an option for governments is to form partnerships with nongovernmental organizations and the private sector to deliver legal services.

The case study on Tamil Nadu demonstrates how government legal aid agencies can partner with community-based groups to deliver effective services to people living with HIV and women. This example combines model 2 (legal aid office), model 3 (hosting by an HIV organization) and model 4 (outreach service).

#### Case study: Ukraine

##### Legal services integrated into harm reduction services

Several harm reduction programmes in Ukraine provide legal services to people who inject drugs. Some employ full-time lawyers, while others contract with private law firms that provide legal services as needed.

These programmes have increased access to legal services for populations in need by placing lawyers at sites where people who inject drugs access harm reduction services such as needle and syringe programmes or methadone provision. The provision of legal services has also increased access to harm reduction services by drawing in new clients.

Nongovernmental organizations with lawyers on the staff have developed a relationship of trust with the programme participants.

*“Simply having a legal professional on staff seemed to provide a salient benefit to programmes and their clients. In Lviv, clients said that they were certain that the fact that they had access to legal assistance influenced the way that police treated them.”*

Three organizations in Ukraine, Time of Life, Mangust and Light of Hope, have legal services integrated into harm reduction services. These organizations provide services to people living with HIV, injecting drug users, prisoners and former prisoners. Other services provided with these legal services include treatment, backing for support groups and harm reduction services.

Legal issues addressed include police misconduct, illegal search and seizure, obtaining confessions under duress, bribery, refusing access to HIV treatment or methadone in police custody, prosecuting clean syringe exchange, discrimination and child custody. Services include legal information and referral, telephone information and advice, court representation, mediation by a lawyer or a social worker, legal rights education and outreach.

Carey C, Tolopilo A (2008). *Tipping the balance: why legal services are essential for the health of drug users in Ukraine*. New York, Open Society Institute. Available at [http://www.soros.org/initiatives/health/focus/law/articles\\_publications/publications/balance\\_20080624](http://www.soros.org/initiatives/health/focus/law/articles_publications/publications/balance_20080624).

#### Model 3. HIV LEGAL SERVICES INTEGRATED INTO THE HIV ORGANIZATION OR THE HARM REDUCTION ORGANIZATION

This model integrates the provision of legal services within the context of other HIV-related services, for example for treatment, care, support or prevention. The model has the advantages of convenience. It provides a one-stop shop where a range of HIV-related needs are addressed through a holistic approach. It can empower health workers to become advocates for the legal rights of people who access health services. Clients of care and support services can be provided with legal services at the same place they receive health care or social services, whether that is a particular building or a mobile service in their community.

#### Model 4. HIV LEGAL SERVICES PROVIDED THROUGH COMMUNITY OUTREACH

This model locates services in community settings where the beneficiary population is found. This is often achieved by partnering with other organizations that have a frontline presence among affected communities or by lawyers attending places where clients are living, such as prisons, hospitals or on the street.

Examples include the following:

##### The Street Lawyer, Denmark

The Street Lawyer offers legal aid on the street twice a week to people who use illicit drugs, people who are homeless and people with mental illnesses. Some of the service users are sex workers. Apart from legal aid, clients are provided with condoms and sterile needles and syringes. The Street Lawyer employs a psychologist who provides therapy and, in cooperation with lawyers, offers counselling on drug treatment options if the person wishes to go onto treatment (see <http://www.gadejuristen.dk>).



Photo credit: UNAIDS/O.'Hanlon

#### **AIDS Project Los Angeles (APLA) and HIV/AIDS Legal Services Alliance Inc. (HALSA), United States of America**

In the 1990s, APLA provided outreach services to community-based organizations whose clients were primarily drawn from ethnic minorities. Training was held with the Black Women Lawyers' Association of Los Angeles. Following training, volunteer lawyers provided services to clients at outreach locations. APLA joined with the AIDS Service Center, the Los Angeles Gay and Lesbian Center, the Los Angeles County Bar Association and Public Counsel to create the HIV/AIDS Legal Services Alliance. These HIV and legal organizations provide a unified service, which employs an outreach attorney (see <http://www.halsaservices.org>).

#### **Model 5. HIV LEGAL SERVICES INTEGRATED INTO AN ORGANIZATION WITH A BROADER HUMAN RIGHTS FOCUS**

This model involves integration of legal services in a nongovernmental organization, community-based organization or faith-based organization that advocates on a range of social issues, including HIV (e.g. women's rights and youth rights). It provides an effective way of linking HIV legal services to advocacy, media relations, research, fundraising and campaigning functions. This model recognizes the interconnectedness of all human rights issues.

Examples include the following:

##### **Women and Law in Southern Africa Research and Educational Trust, Zimbabwe**

This service focuses on the needs and rights of women, including those affected by HIV. Activities include research, advocacy for policy and law reform, legal rights education and training, as well as legal advice and assistance services (see <http://www.wlsa.org.zm/profile.htm>).

##### **Legal Assistance Centre, Namibia**

The Legal Assistance Centre is a public interest law firm. It has four areas of work: the Human Rights and Constitutional Unit; the Gender Research and Advocacy Project; the Land, Environment and Development Project; and the AIDS Law Unit (see <http://www.lac.org.na>).

##### **Lawyers Collective, India**

The Lawyers Collective operates its HIV-related legal services through an HIV/AIDS Unit. The Lawyers Collective comprises lawyers, law students and human rights activists and was created to provide expert legal assistance to the underprivileged, especially women and children, workers in the unorganized sector and other members of marginalized groups. In addition to the HIV/AIDS Unit, the Lawyers Collective implements a Women's Rights Initiative, a Civil Rights Initiative and a Tobacco Control Initiative (see <http://www.lawyerscollective.org>).

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### **Model 6. HIV LEGAL SERVICES PROVIDED BY PRIVATE SECTOR LAWYERS ON A PRO BONO BASIS**

This model provides access to the resources of private law firms, including senior legal professionals, at no cost (i.e. pro bono). Pro bono services can supplement or be integrated into community-based services, for example by private law firm staff donating a proportion of their time to work as volunteers for nongovernmental organization legal services. In some countries, bar associations, the licensing agency for lawyers, or the government may make pro bono provision of legal aid mandatory. HIV legal services can be provided through these pro bono schemes.

Examples include the following:

#### **Probono.org HIV/AIDS Legal Clinic, South Africa**

Nine private law firms are partners of the Probono.org HIV/AIDS Legal Clinic. Consultations are given to individuals or groups who cannot afford commercial legal fees and who have legal matters that are in the public interest. Public interest court cases are referred to law firms for representation. Referrals are made to other bodies should the matters not be suitable for legal resolution. The clinic maintains working relationships with a range of HIV nongovernmental organizations and arranges training and seminars on public interest topics for nongovernmental organizations and law firms (see <http://www.probono-org.org>).

#### **Yunnan Righteous Law Firm, China**

The Yunnan Righteous Law Firm has partnered with legal aid offices, volunteer law school students and nongovernmental organizations to provide free legal advice to people living with HIV, many of whom are injecting drug users, and their families. The law firm has also helped to organize capacity-building of the legal profession on HIV and the law, including assisting with publication of the *Guidebook on HIV and the law in Yunnan* (see [http://www.idlo.org/publications/Guidebook\\_to\\_HIVAIDS\\_and\\_the\\_Law\\_EN\\_July\\_2008.pdf](http://www.idlo.org/publications/Guidebook_to_HIVAIDS_and_the_Law_EN_July_2008.pdf)).

### **Model 7. HIV LEGAL SERVICES PROVIDED BY PRIVATE LAWYERS ON RETAINER TO COMMUNITY-BASED ORGANIZATIONS**

Some community-based organizations seek to provide regular access for their clients to private lawyers in the local community on specific matters, such as police relations. Clients may require access at short notice to non-judgemental representation from lawyers with a thorough understanding of the local legal system and expertise in specific areas of the law relevant to key populations, such as criminal law and arrest rights.

For example:

Community-based groups of men who have sex with men and transgender people in India are able to access lawyers from the local community who are paid a retainer. The services required relate primarily to arrests and police harassment. The assistance usually involves negotiation with police rather than court representation. The lawyers retained are well versed in local criminal

law and have a good understanding of local police and prosecution practices. The retainer is funded through a donor grant from the Foundation for AIDS Research (amfAR) to the UDAAN Trust for the National MSM and HIV Policy Advocacy and Human Rights Task Force. Through this project, the taskforce works with human rights lawyers to defend men who have sex with men and transgender people in the Indian court system.

### **Model 8. HIV LEGAL SERVICES PROVIDED BY A UNIVERSITY LAW SCHOOL**

This model maximizes use of volunteer students and lawyers and provides ready access to academics and experts. The model can be highly efficient in terms of cost. University legal aid centres can have outreach capacity and good links to the private legal profession for pro bono referral.

In Africa, services provided by law students exist in high HIV prevalence settings, including in Botswana, Ghana, Kenya, Lesotho, Sierra Leone, United Republic of Tanzania and Zimbabwe. Examples are also found in Brazil, China and South Asia. In many countries, however, the work that law students can do on behalf of clients is restricted because of their inability to practise before courts.

#### **Case study: law school legal services, South Africa**

In South Africa, legal services provided by law schools are relied on extensively to provide low-cost or free advice and representation services to poor communities.

The University of KwaZulu-Natal operates a legal service with two main goals: the provision of free legal services and practical legal training to law students. The university provides legal and educational services in the fields of access to land and housing, livelihoods, gender and children's rights, juvenile justice and HIV. The service addresses systemic causes of human rights abuses through monitoring, advocacy, documentation and networking.

HIV issues addressed by the service have included discrimination in the workplace and insurance, HIV testing issues, access to treatment, discrimination in relation to benefits, services, treatment and care. In some instances the representation of a client has required court advocacy. However, in most instances issues have been resolved through negotiation with the relevant institution. The service has mainstreamed HIV issues into its overall work, to address the issues holistically.

Ramgobin A (2003). Discrimination against people living with HIV/AIDS. Paper delivered at the First All-Africa Colloquium on Clinical Legal Education, Durban, South Africa. Open Society Justice Initiative. *Combining learning and legal aid: CLE in Africa*. Durban, South Africa.

#### **Case study: Zambian students initiate national HIV legal service, ZARAN**

ZARAN (Zambia AIDS Law Research and Advocacy Network) began as an association at the University of Zambia. It was initiated by a group of law students who were interested in addressing the legal and ethical challenges of HIV. In 2001, ZARAN evolved from a student organization and was registered as a nongovernmental organization. These changes included setting up a secretariat, recruiting staff, establishing a governance body and mobilization of resources for the operations of the organization. ZARAN conducts research, capacity-building of the legal profession and advocacy and runs a legal clinic. ZARAN has partnered with the Southern Africa Litigation Centre to conduct test cases on HIV-related discrimination to challenge the dismissal of HIV-positive members of the Zambia Air Force.

## 5. Designing locally appropriate service models

Typically, low- and middle-income countries are served by only a few nongovernmental-organization-based HIV-related legal services. These services address the needs of a small fraction of the total population of people living with HIV, people affected by HIV and key populations. Much more needs to be done to scale up HIV-related services. This may involve a mix of models that are effective for responding to the varying legal needs of different communities and the diverse challenges posed by different types of epidemics. Each country and community will require their own process to develop the mix of HIV-related legal service models that best suits their needs.

### KNOW YOUR EPIDEMIC AND YOUR NATIONAL HIV RESPONSE

It is important to understand where HIV-related legal services fit within the national HIV response. HIV-related legal services programmes should be an element of a cohesive national strategy that is informed by and responds to the particular HIV epidemics in the country. Any programmatic response to HIV should also be based on knowledge of the epidemic and the response, including gaps.<sup>4</sup> When planning an HIV-related legal service programme, be it large or small, it will be important to know how such a programme fits within the national strategy relating to HIV. The national strategy should ensure support and funding for the planned programmes, where they are not included in other funding efforts, such as within a university. Engagement with the bodies responsible for implementing the national HIV strategy can also lead to opportunities for programme implementers to participate in processes relating to national planning.

### PARTICIPATORY NEEDS ASSESSMENT

A key principle in designing legal services is participation of people living with HIV, people affected by HIV and key populations in developing the service models that will be effective in meeting their needs and that are tailored to the local context.

Where possible, designing legal services should be informed by a situation analysis and needs assessment. Needs assessments can help in shaping a strategy for establishing services and for scaling up services nationally. The process of conducting a needs assessment should be participatory. Involving people living with HIV and members of relevant key populations to help design and conduct the needs assessment can ensure that it is designed in a way that will reach those in the community who stand to benefit most from an HIV-related legal service.

<sup>4</sup> For more information on the importance of 'knowing your epidemic' and of planning your response accordingly, see: UNAIDS (2007). *Practical guidelines for intensifying HIV prevention*. Geneva, UNAIDS. Available at [http://data.unaids.org/pub/Manual/2007/20070306\\_prevention\\_guidelines\\_towards\\_universal\\_access\\_en.pdf](http://data.unaids.org/pub/Manual/2007/20070306_prevention_guidelines_towards_universal_access_en.pdf).

#### Participatory needs assessments are conducted to:

- 1 Ensure that the analysis of local legal needs and challenges is informed by a range of local perspectives.
- 2 Identify potential within a community to contribute to solutions, e.g. existence of informal legal systems.
- 3 Build trust between the community and the organization assessing needs and generate community ownership in the programme.



Photo credit: UNAIDS/P. Virot

### **Participatory needs assessments may involve consultations with:**

- 1 Local nongovernmental organizations and community-based groups, including organizations of people living with HIV and those representing key populations.
- 2 Government legal aid services, where they exist, and other non-government legal service providers.
- 3 Local lawyers, judges, the police and prosecution services.
- 4 Human rights organizations, including national human rights institutions (human rights commissions and ombudsmen), where they exist.
- 5 The National AIDS Commission and any provincial or local AIDS committees.

### **A comprehensive situation analysis and needs assessment should examine the following issues:**

- 1 Which populations in the local community are most affected by HIV?
- 2 What legal and HIV services already exist for these populations and who is providing them?
- 3 What legal services are most required by these populations? What violations of legal rights are commonly faced by these populations? Do these violations contribute directly to HIV risk or vulnerability? Are these legal problems HIV-related?
- 4 Is legal aid available from the government? What capacities do government legal aid services have to respond appropriately to the legal needs of people living with HIV and key populations?
- 5 How should services respond to the differing needs in rural and urban settings?
- 6 How should services respond to differing needs in high HIV prevalence and low HIV prevalence areas?
- 7 Are there geographic or other obstacles to access to legal services that need to be considered in designing services for specific populations?
- 8 Are alternative dispute resolution procedures available, including traditional, religious or informal village-based systems, and how well would these procedures respond to the legal needs of people living with HIV and key populations?
- 9 Who are the potential partners and referral points for legal services?
- 10 What financial, technical and human resources are available for HIV legal services?
- 11 What capacity do existing and planned organizations have to absorb funds and deliver services effectively?

The design process can help to define the goals, outcomes and outputs for the HIV-related legal services (see the example of a design framework in Appendix 4). A thorough needs assessment can help to ensure that services are delivered to the people who most need them and to the places where they are most needed. It can also provide a baseline of needs, which can be used in later years when evaluating the HIV-related legal service.

Community surveys can be used to gather information for a needs assessment. This information can be supplemented by more in-depth information gained through face-to-face discussions. Face-to-face consultations can be semi-structured interviews, in which some questions are predetermined to guide the interview, but there is also an opportunity to ask other questions and for discussion about the issues raised. Focus groups are another participatory method that can be used in the needs assessment process.

It is important to clearly define the priority client populations that a HIV-related legal service will target. The beneficiary population of the service will influence the types of law that the service should focus on, the location of the service, access arrangements, outreach sites, the skills and experience required of staff, referral points and partner organizations in the health and justice sectors.

### USE OF EXISTING DATA IN A SITUATION ANALYSIS AND NEEDS ASSESSMENT

A situation analysis may be able to draw on existing research. For example, AIDS service organizations may have conducted research into legal issues in order to inform advocacy.

Every two years, starting in 2003, countries have reported to the United Nations General Assembly on progress made towards meeting the commitments made in the Declaration of Commitment on HIV/AIDS, adopted by United Nations Member States in 2001. As part of these reports, countries have submitted the National Composite Policy Index, which assesses progress in development and implementation of HIV-related policies and strategies. The National Composite Policy Index can provide information about the HIV-related laws and legal services that are in place in each country.

In most countries, civil society organizations have been engaged in the national reporting process as well as government agencies. In some countries, civil society organizations have produced 'shadow reports' to the reports submitted by governments in the UNGASS monitoring process. These reports sometimes reflect the perspectives of key populations who found it difficult to gain access to more formal reporting processes.<sup>5</sup>

### ADVISORY GROUP

The provision of HIV-related legal services can involve dealing with sensitive political and social issues. Legal services can benefit from establishing a group such as an advisory panel that comprises a diverse range of well-respected individuals from the community and other relevant sectors. Models that involve the formation of a stand-alone organization can

<sup>5</sup> National reports are available on the UNAIDS web site at: <http://www.unaids.org/en/KnowledgeCentre/HIVData/CountryProgress>; shadow reports produced by civil society organizations are available on the web site of the International Council of AIDS Service Organizations: [http://www.icaso.org/shadow\\_reports.html](http://www.icaso.org/shadow_reports.html).

#### Advisory Boards

Advisory boards have been established to support the HIV-related legal services operated by the Health Policy Initiative in Viet Nam. Members of the advisory boards are drawn from: networks of people living with HIV; the Center for Consulting on Law and Policy in Health and HIV/AIDS; the Vietnam Lawyers Association; representatives of the provincial AIDS committees; provincial government authorities, such as the Department of Labor, Invalids, and Social Affairs; and the Health Policy Initiative. Bringing these groups together has helped to foster dialogue between people living with HIV and the government on legal rights in the workplace, schools and the health-care system.

See: Health Policy Initiative Viet Nam (2009). *Making policies work*. Available at <http://www.healthpolicyinitiative.com/index.cfm?id=news&year=2009>.

consider including this function in the role of the governance body of the organization. This group can advise the programme implementers on critical strategic issues as they arise. It can also provide a pool of influential champions for the programme, which can be drawn upon when needed, such as when applying for funding.

### TRADITIONAL LEGAL SYSTEMS

When designing legal services, it is important to assess whether there are community-based dispute resolution processes that can be used as an alternative to formal courts by people living with HIV and key populations.

For example, in India, lok adalat (people's courts) use trained mediators to resolve common problems that previously may have been decided by elders. In Bangladesh, disputes such as family matters and land claims are

#### Case studies: Lawyers Collective HIV/AIDS Unit, India

The Lawyers Collective HIV/AIDS Unit is a leading provider of HIV-related legal services in India.

#### Sex workers' rights

Based on a newspaper report that there were underage girls in the sex industry in Mumbai, a court ordered the police to identify and detain them. The court required that all the girls to be tested for HIV regardless of consent. Many women and girls were detained and placed in state protective homes. A large number of those who were detained were not under age. The Lawyers' Collective intervened and obtained a court order for proper medical treatment of the women and girls and to prevent HIV testing without consent. *The Lawyers Collective also requested that the court order the release of the sex workers who were over 18, but the court did not grant an order for their release.*

#### Employment discrimination

MX was a casual labourer. Company policy required casual labourers to sign a register and be placed on a waiting list. Those determined to be medically fit were eventually employed on a permanent basis. In 1993, MX was asked to undergo a medical examination, which included an HIV test. MX tested HIV-positive, but in all other respects was assessed as healthy. Notwithstanding this medical assessment, the company removed MX from its waiting list of registered labourers.

Representing MX, the Lawyers Collective discovered that the company had issued written circulars mandating HIV testing. The company circulars stated that those testing HIV-positive would not be hired and current employees could be dismissed. The Lawyers Collective commenced court proceedings to challenge MX's removal from the waiting list. The court found that MX's rights had been breached and he should be reinstated on the panel of casual labourers. The court ordered the company to accept him as a permanent labourer should he be certified fit to work and the company was required to pay the income he had lost. The court ordered that MX's identity be suppressed, to protect him from stigma and discrimination.

Aggleton P et. al. (2005). *HIV-related stigma, discrimination and human rights violations: case studies of successful programmes*. Geneva, UNAIDS. Available at [http://data.unaids.org/publications/irc-pub06/JC999-HumRightsViol\\_en.pdf](http://data.unaids.org/publications/irc-pub06/JC999-HumRightsViol_en.pdf).

UNAIDS & Canadian HIV/AIDS Legal Network (2006). *Courting rights: case studies in litigating the human rights of people living with HIV/AIDS*. Geneva, UNAIDS. [http://data.unaids.org/pub/Report/2006/jc1189-courtingrights\\_en.pdf](http://data.unaids.org/pub/Report/2006/jc1189-courtingrights_en.pdf).

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resolved through the 'shalish', which consists of male leaders of the village who mediate claims. Although a shalish-mediated dispute can be biased against women, for many people it is the only forum available for resolving claims. The Maduripur Legal Aid Association, a Bangladeshi nongovernmental organization, has reduced the bias against women of the shalish through education and the selection of women as mediators.

Another example is a project of the Kenya Ethical and Legal Issues Network on HIV/AIDS (KELIN), which works with traditional structures to reinstate disinherited widows living with and affected by HIV.

Provision of services by paralegals and the use of informal or traditional legal systems, such as village courts, may be an effective option to protect the rights of clients, particularly in rural communities that are not served by courts. Also, formal legal services may be considered to be too slow, public, complicated, costly and commercially driven. Traditional structures such as councils of elders may be more appropriate for mediating and arbitrating some disputes.

Community-based alternatives to formal processes can restore social cohesion and reduce reliance on the police and incarceration to enforce the law. Alternatives to courts should be supported, provided that they conform to human rights standards.

Traditional systems may not be appropriate if they involve enforcing customary laws that discriminate against women in resolving issues such as family relations and inheritance disputes. It is important for legal services to discuss HIV-related rights and issues with elders in order to assist them to understand rights-based responses. Legal services can work with elders to strengthen traditional systems so that they are more consistent with human rights norms. Such efforts can create a sustainable system of legal advice and support and produce champions for community responses to HIV.



Photo credit: UNAIDS/P. Viot

## 6. Capacity- building of legal sector workers

Many HIV-related legal services engage in capacity-building activities, such as the training and production of resources on HIV and the law, for the legal community, including judges, lawyers, paralegals, volunteers and law students.

### Capacity-building on HIV and the law is required by:

- 1 Lawyers or paralegals who will be employed or volunteering at an HIV legal service.
- 2 Lawyers, judges, police, prosecutors and others working in the general legal system, to improve the standards of legal services provided to people living with HIV, people affected by HIV and key populations.

### Capacity-building on HIV and the law may also be required by:

- 1 People working in other sectors, such as health-care workers, employers, trade unions and media workers, so they can avoid breaching legal rights and are able to refer people who have HIV-related legal problems to legal services.
- 2 People living with HIV, people affected by HIV and key populations, so they can know their rights and demand legal services.

#### Capacity-building for the legal profession Lawyers Collective HIV/AIDS Unit (India)

The Lawyers Collective HIV/AIDS Unit publishes a magazine containing summaries and analysis of HIV-related legal developments that is distributed to lawyers, judges and law schools. The magazine is available online and a web site with legal materials is also maintained. A book, *Legislating an epidemic*, was published in 2003 and given to judges and lawyers attending workshops. More than 2000 of these books have been circulated. Internships at the unit for law students are offered annually. Some interns have graduated and joined the staff.

#### AIDS Law Project (South Africa) and Canadian HIV/AIDS Legal Network

The AIDS Law Project, based in South Africa, and the Canadian HIV/AIDS Legal Network established a formal partnership agreement in 1999.

This has enabled the two organizations to work together to improve awareness and understanding of the legal, ethical and human rights impact of HIV, to promote regular communication between organizations at the management and operational levels and to undertake joint activities in research, publications, the creation and support of professional and advocacy networks, conferences and education.

The partnership encouraged contact between staff from the two organizations, including through meetings at international events. This partnership supported the professional development of the staff of both organizations.

This toolkit focuses on the capacity-building needs of people working in the legal sector, including lawyers, judges, paralegals, volunteers and law students.

### EFFECTIVE CAPACITY-BUILDING APPROACHES AND METHODS

The focus of capacity-building efforts will vary depending on the composition of the audience, the nature of the local formal and traditional legal systems, the nature of the local HIV epidemic and the local social conditions that will shape client demand for advice and representation on different areas of the law.

A single workshop will most likely have limited impact in building the capacity of people working in the legal sector. A more sustainable approach is to ensure ongoing opportunities for lawyers and paralegals to improve their skills and knowledge in areas related to HIV and the law.

Apart from workshops, there are many other approaches to developing the capacity of legal service providers. These include formal and informal professional networks, mentoring or professional guidance, newsletters, electronic discussion boards, journal articles and other

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educational materials for law students, lawyers, prosecutors or judges. Partnerships between legal services can facilitate exchange of staff, mentoring and other professional development opportunities. National and regional conferences on HIV and/or legal services can be a way of bringing stakeholders together, to strengthen professional networks and share lessons in effective service delivery.

Capacity-building networks are important for sharing knowledge, such as key judgements, capacity-building techniques and legal education and training resources.

To offer effective services to people living with HIV, lawyers should have a good understanding of the nature of HIV and of its psychological, social and legal consequences. It is important to explore social attitudes (including lawyers' attitudes) during any training programme. Attitudes that can be discussed as a part of training include attitudes towards people living with HIV, people who use illicit drugs, violence against women, sex workers, men who have sex with men, transgender people and prisoners. Addressing attitudes, including exploring prejudices and challenging assumptions and misconceptions about sexual orientation and gender identity, is often more important than explaining the relevant law in ensuring that people living with HIV receive quality legal services.

**It may be useful to include the following elements in training:**

- 1 An introduction to the experience of living with HIV in the local community and the human rights issues faced in everyday life, presented by a person living with HIV. Testimony from people living with HIV about their experiences with the legal system is a very powerful way to challenge attitudes and convey the reality of living with HIV. This component should come before the other components—it is a mistake to jump to the substantive legal issues before the preliminary training on attitudes and the nature of the epidemic.
- 2 A description of the science of HIV, including means of transmission and prevention, locally available treatments, treatment side-effects and illness progression.
- 3 A description of the social context, including the local epidemiology, social drivers of the epidemic, key populations and gender factors.
- 4 An introduction to the human-rights-based approach to HIV and how protection of human rights underpins effective prevention, care, support and treatment, including commitments made by governments on human rights and law in the United Nations Declaration of Commitment on HIV/AIDS (2001) and the Political Declaration on HIV/AIDS (2006).

Participatory learning approaches and experiential learning techniques are more likely to be effective than lecture-style classroom teaching methods.



Photo credit: UNAIDS/P.Virot

When involving people living with HIV and key populations in training, it is important that they can feel safe in discussing personal issues, particularly if they are concerned about the legal implications of disclosing their health status and past or current risk behaviours. For example, it may be desirable to invite representatives of local people living with HIV to come one day in advance of a training workshop in order to prepare them for presenting at the workshop. This provides an opportunity to revise the agenda based on their input.

**Capacity-building can also address the special needs of clients with HIV, such as:**

- 1 The need, where desired, for strict confidentiality of client records and the importance, should the client so wish, of avoiding publicity, including the need for privacy in court proceedings.
- 2 The importance of non-stigmatizing personal conduct and use of non-judgemental language when interacting with clients and their families.
- 3 The benefits of alternative dispute resolution processes for people living with HIV (e.g. speed of resolution, costs, avoidance of stress).
- 4 Knowledge of local referral points for HIV care, treatment and support services and organizations of people living with HIV.

Capacity-building can also address the need to monitor and evaluate HIV legal services (see Section 7). This should include the importance of involving people living with HIV and key populations in the evaluation process to determine the quality and impact of the services provided from a service user's perspective. In many respects, people living with HIV and key populations are the experts. They have personal experience that service providers can learn from. Many clients fear being judged by their legal service provider. Judgemental service providers cannot provide services that are truly accessible to clients.

**Capacity-building methods may include:**

- 1 An opportunity for a person living with HIV to present and discuss their experiences with human rights violations and the legal system and to explain the GIPA principle (greater involvement of people living with HIV and AIDS) and what is involved in making GIPA meaningful.
- 2 Site visits to other HIV services, to familiarize participants with other available non-legal services. Alternatively, a representative from a local HIV nongovernmental organization could attend in order to describe the other services available in the community.
- 3 Discussing and challenging attitudes to sex, sex work, sexual orientation and gender identity.
- 4 Involving experts such as an epidemiologist or an HIV clinician in presentations or discussions. Experts are able to respond authoritatively to questions regarding the nature of HIV and how it is transmitted.
- 5 Participatory learning methods such as working groups and group exercises, so that opportunities to discuss issues and learn from each other are maximized.

### In designing training programmes, attention needs to be given to such factors as:

- 1 How the training fits into a broader process of professional development and capacity-building.
- 2 How to identify the existing capacity and information needs of participants.
- 3 How many hours or days are feasible.
- 4 The advantages of a longer or shorter training session.
- 5 Site visits.
- 6 How to identify the participants.
- 7 Evaluating the effect and outcomes of the training over time, including how it fits within an ongoing process of learning and capacity-building.

Consideration needs to be given to whether legal training is provided for lawyers only, or lawyers together with community members such as HIV activists. Involving lawyers and activists together allows for lawyers to learn from activists regarding current issues of community concern. A disadvantage may be that technical legal content that is useful for lawyers may not interest non-lawyers.

Appendix 1 provides an example of a training programme. Appendix 2 provides examples of subjects that might be included in modules for workshops.

#### Human rights and the HIV paradox

A key first step to educating lawyers on HIV, law and human rights is to understand the HIV paradox.

This paradox states that the most effective way of preventing the spread of HIV is to protect the human rights of people most affected, including key populations whose behaviours may be criminalized, such as sex workers, men who have sex with men and people who use illicit drugs.

This is considered a paradox because the assumption in the past has been that to prevent a public health threat requires limitation of individual rights, rather than protection of rights. Attempts to control epidemics have often involved quarantine, isolation and other compulsory legal measures. Paradoxically, in the case of HIV, such measures that limit rights are likely to accelerate the spread of the epidemic, rather than prevent it.

Once this paradox is acknowledged and understood, laws and legal services that protect the human rights of people living with HIV and key populations can be seen to support public health, rather than conflict with public health.

See: Kirby M (1996). Human rights and the HIV paradox. *Lancet*, 348(2):1217–1218.

Training on the substantive law will vary according to jurisdiction. Specialized training is required for addressing subpopulations with very specific legal needs, such as people who use illicit drugs, sex workers, prisoners, men who have sex with men and transgender people. Training curricula should address the substantive law as well as the process for enforcing the law and alternatives to the court system. This should be included as a result of a needs analysis and cannot be addressed in one workshop.

In some instances, comprehensive texts have been produced on HIV-related law for lawyers, paralegals, activists and health-care workers. For example, the AIDS Law Project in South Africa has produced *HIV/AIDS and the law: a resource manual* (3rd ed., 2003) (<http://www.alp.org.za>).

There are also Internet-based resources, such as AIDS and Law Exchange (AIDSLEX) (<http://www.aidslex.org>).

# 7. Monitoring and evaluation

## WHY MONITORING AND EVALUATION IS IMPORTANT

Monitoring and evaluation is the process by which data are collected and analysed in order to provide information to policy-makers and others for use in programme planning and project management.

### Reasons for monitoring and evaluating an HIV legal service include:

- 1 To capture lessons and learn from past experience, in order to improve the quality and coverage of services.
- 2 To ensure accountability to the communities served by legal services.
- 3 To know whether services are achieving their stated objectives and delivering the intended outcomes for individuals and communities.
- 4 To demonstrate results that provide a rationale for further funds to be allocated to scale up the services.
- 5 To monitor national progress of scale-up towards universal access to HIV legal services.
- 6 To collect data for use in advocacy efforts.
- 7 To ensure accountability to funders.

## MONITORING

Monitoring of how a legal service is performing requires ongoing data collection to provide indications of progress and the achievement of objectives. Monitoring requires the regular tracking of activities and outcomes. Managers of a legal service should ensure that there are systematic ways to monitor service levels, service coverage and service quality.

### For example, data can be routinely recorded regarding:

- 1 Compliance with the recommended principles for ethical and effective legal services set out in Section 3 (see the discussion below on quality of services).
- 2 The numbers of clients.
- 3 The types of legal problems and how they are dealt with (including details of the courts, or other processes, that were used).
- 4 The number of hours or days required to manage and conclude each case, including the number of court days.
- 5 The client profile, including the client's gender, age, membership of key population, post code of residence and (with consent) anonymous data on HIV status (kept securely and separately from other data).
- 6 Feedback received from clients about their level of satisfaction with the legal service provided.
- 7 The number and nature of any specific complaints or compliments received about how the service was provided.

### Monitoring and documentation of complaints and cases

Systematic monitoring of complaints received and cases handled by legal services can be a powerful advocacy tool. Services can document trends such as the number of cases of discrimination or violence associated with HIV status. Complaints or cases can be recorded in such a way as to not disclose the identity of the client. If consent is given by the clients, case studies drawn from real life can be used for advocacy. Case studies can be highly effective in communicating the need for changes to discriminatory or unjust policies and practices, or for law reform.

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- 8 Detailed records of other activities, such as workshops held, resources produced and other capacity-building activities. For example, monitoring of workshops can record how many men and how many women attended the workshops, can collect feedback from those attending on the effectiveness of the teaching methods and can determine whether the lessons learned are considered useful and how the lessons have been applied in practice after the workshop.

Legal services that provide advice and representation should have a case record sheet for standardized recording and compilation of data.

### EVALUATION

Evaluation is a systematic way of measuring whether the intended results of the legal service project have been achieved.

Evaluation occurs at certain stages or fixed points in the life of a legal service programme, such as every two or three years. An evaluation is a thorough review of progress and should define the important lessons learned from implementation. An evaluation may consider whether the objectives of the service should be changed to respond to gaps, changing circumstances or new needs.

### A MONITORING AND EVALUATION SYSTEM

A monitoring and evaluation system should be in place from the time of commencement of a legal service programme. A monitoring and evaluation system is a combination of ongoing monitoring and periodic evaluation activities that enable assessment of:

- 1 The effectiveness of the service i.e. the extent to which the objectives of the legal service are being met.
- 2 The efficiency of the service; that is whether the service uses the least costly resources possible in order to achieve the desired results (e.g. resolving discrimination complaints, preparing wills, raising awareness of legal rights) compared with alternatives.

Monitoring and evaluation can be assisted by defining performance indicators. Performance indicators are measures that describe how well a service is achieving its objectives. Indicators may be quantitative measures or qualitative observations. Performance indicators define the data to be collected to measure progress and enable the results achieved over time to be compared with the results that were originally planned.

Appendix 4 provides examples of performance indicators for legal advice and representation, human rights education and advocacy. It is not recommended that all of these be adopted. Rather, the aim should be to develop a monitoring and evaluation system tailored to a specific service that is simple and easy to understand and apply.



Photo credit: UNAIDS/P. Virost

The indicators listed in Appendix 4 are set out in the format of a 'logframe' (logical framework). Some funders require monitoring and evaluation to be described prior to commencement of a programme with reference to a logframe, which may be adjusted over the life of the programme grant as conditions change. Logframes can be useful programme planning and management tools.

Appendix 5 provides information on outcome evaluation and process evaluation.

When designing a monitoring and evaluation system, it will be important to minimize the burden of unreasonably complex or multiple reporting. If an HIV legal service is integrated into another service, such as a health service, the monitoring and evaluation should also be integrated.

### **PARTICIPATORY APPROACHES**

Participatory monitoring and evaluation methods provide opportunities for involvement in decision-making for all those with a stake in the legal service. This can give community members ownership of the results and recommendations of an evaluation. A participatory process can provide knowledge and skills to empower people living with HIV so that they can influence the nature and quality of legal services. Participatory approaches can support sharing of learning between client communities, service providers and evaluators. This can enable assessment and planning of legal services to occur collaboratively. Participatory monitoring and evaluation can involve the various community stakeholders of a legal service working together to identify problems, collect and analyse information, and generate recommendations.

Regular client and community feedback should be part of the service design and is key to monitoring quality. This can be achieved by ensuring that people living with HIV and representatives of key populations are members of the governance structure of the legal service. It is also helpful to ensure that community members have opportunities to provide their views about the service, for example through annual or bi-annual public meetings attended by community members and the management committee of the service.

Focus groups can be held as a part of an evaluation to identify concerns and explore ways of addressing those concerns. Focus groups may comprise clients, staff of the legal service or staff of other HIV services. Focus group discussions can use oral and visual techniques so that illiterate people can participate.

### **MONITORING AND EVALUATING QUALITY**

In monitoring and evaluating a legal service organization, it is important to measure both the quantity of services provided (e.g. the number of clients who are seen per month) and the quality of services provided.

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The quality of legal services can be measured by assessing the service against standards or principles that have been set for the provision of legal services. Legal services that have adopted the principles recommended in Section 3 could monitor and evaluate compliance with these principles through asking the following questions:

- 1 How does the legal service ensure that its services are client-centred and do not discriminate unfairly on the grounds of HIV status, gender identity, sexual orientation, disability, ethnic or national origin or other grounds?
- 2 How are people living with HIV and/or key populations able to participate in the planning, management and activities of the legal service (other than as clients)?
- 3 How does the legal service ensure that services are provided in a way that is appropriate and accessible for all target clients, including meeting the needs of, for example, women, men and transgender people, in terms of the legal issues addressed, personal security needs, timing and physical access?
- 4 What measures have been taken to ensure that:
  - a The wishes of the client regarding confidentiality and privacy have been ascertained and are respected and protected?
  - b The governance of the service is transparent and accountable to communities and funders?
- 5 Sufficient human and financial resources have been provided, or are planned, to sustain the service into the future?

As a component of monitoring, these questions can be asked of staff and volunteers during regular supervision and at staff meetings and management meetings. Some of these questions can also be asked of clients in surveys conducted once a case has been completed.

As a component of an evaluation, these questions can be asked of focus groups drawn from the client community, staff and volunteers, or through surveys of clients and other stakeholders of the service. Means of verification of the quality of services (including compliance with the service principles) can include case studies, key informant interviews and focus group discussions.

Monitoring and evaluating the quality of legal services is assisted if quality standards are established against which legal service performance can be assessed. Standards can draw on the recommended legal service principles of this toolkit and can be incorporated into procedures, guidelines, protocols, skill descriptions and terms of reference.

**Other examples of quality issues to include in standards that are monitored are:**

- 1 Ease of physical access and opening times of legal advice services.
- 2 Whether educational materials on legal rights are culturally appropriate, understood, consistently available and used.

- 3 Whether services are responsive to clients, effective in resolving problems within a reasonable timeframe, supportive and non-judgemental.
- 4 Whether there is a process understood by clients for lodging complaints if clients are dissatisfied with the legal service provided.

### Most significant change evaluations

The 'most significant change' method is an example of participatory monitoring and evaluation.

The method does not require use of a fixed set of indicators. It encourages participants to share, discuss and document their stories of significant change that result from activities such as introducing legal advice services and human rights education to a community.

The approach is to identify changes that are easy for everyone to understand, such as 'changes in people's lives'. These may be broad categories that are not precisely defined, such as performance indicators, but are deliberately left loose. Change stories are collected from people directly involved in the service, such as people living with HIV. The stories are collected by asking a simple question, such as: 'During the last month, what was the most significant change that took place for people's lives as a result of the legal service?' Respondents are encouraged to report why they consider a particular change to be the most significant one.

The stories are then analysed and the most significant accounts of change are selected. A group of participants is asked: 'From among all these significant stories of changes in people's lives, what do you think was the most significant change?' Every time stories are selected, the criteria used to select them are recorded and fed back to stakeholders. Funders can be asked to select stories that best represent the sort of outcomes they wish to fund, and why. This information is fed back to legal service managers.

Reasons why legal services may find this evaluation method useful include:

- 1 It is a participatory approach that requires no special professional skills. It is easy to communicate across cultures. There is no need to explain what an indicator is. Everyone can tell stories about events they think were important.
- 2 It encourages analysis as well as data collection.
- 3 It can be used to monitor and evaluate bottom-up initiatives that do not have predefined outcomes.

See: Davies R, Hart J (2005). *The 'most significant change' (MSC) technique, a guide to its use*. Available at [www.mande.co.uk/docs/MSCGuide.pdf](http://www.mande.co.uk/docs/MSCGuide.pdf).

Care needs to be taken in monitoring the quality of advice and representation because of the need to respect clients' interests, including the desire of clients for information relating to them to be confidential. It may not be appropriate for third parties to observe, monitor and report how legal advice is provided unless client consent can be obtained or the information can be anonymized prior to review. Conducting voluntary surveys of client satisfaction after the conclusion of a case is a way to monitor the quality of advice and representation. Attention will need to be given to ensuring that information about a client's case gathered in this way is only disclosed to others with client consent, consistent with the principle of client-centredness.

### HUMAN-RIGHTS-BASED MONITORING AND EVALUATION

Human-rights-based monitoring and evaluation is an approach that uses a human rights lens to monitor the operation of legal services and the outcomes achieved for clients and the community. This can promote the human rights accountability of organizations providing HIV-related legal services. Monitoring and evaluation can be explicitly informed by a human rights approach by adopting a human rights impact assessment methodology.

Obligations arising from international human rights law are legally binding on national governments. This includes all those employed within the public sector, such as lawyers working in state legal aid agencies. The conduct of state legal aid agencies and outcomes achieved can be monitored against standards and norms of international human rights laws, such as those related to non-discrimination and privacy. Within a human rights framework, lawyers working in the private sector and nongovernmental organizations are expected to carry out their activities with full regard for the fundamental

human rights of individuals and groups. Non-state actors such as nongovernmental organizations and the private sector are not directly bound by international human rights treaty obligations. However, non-state actors can be monitored as to whether activities comply with international human rights standards and norms by giving attention to protecting, promoting and realizing human rights in the provision of legal services to communities and in management and administration. There may also be domestic human rights laws and constitutional rights and obligations against which services can be assessed.

Information on human rights impact assessment tools and instruments is available at <http://www.humanrightsimpact.org>. Information on country ratification of human rights treaties is available at <http://www.unhchr.ch/tbs/doc.nsf>.

### Monitoring of compliance with international commitments

In adopting the Declaration of Commitment on HIV/AIDS (2001), UN Member States committed themselves to report on their progress in responding to HIV to the United Nations General Assembly. As part of this reporting, countries are requested to give details on the development and implementation of HIV-related laws, policies and strategies.

The following are some of the questions relating to the provision of legal services contained in the UN monitoring framework:

- In the past two years, have members of the judiciary (including labour courts/employment tribunals) been trained/sensitized to HIV and human rights issues that may come up in the context of their work?
- Are the following legal support services available in the country?
  - Legal aid systems for HIV casework.
  - Private sector law firms or university-based centres to provide free or reduced-cost legal services to people living with HIV.
  - Programmes to educate and raise awareness among people living with HIV on their rights.
- Overall, how would you rate the policies, laws and regulations in place to promote and protect human rights in relation to HIV in (the past year)? (On a scale of 0 to 10).
- Since two years ago, what have been the key achievements in this area?
- What are the remaining challenges in this area?
- Overall, how would you rate the effort to enforce the existing policies, laws and regulations (in this year)? (On a scale of 0 to 10).

UNAIDS (2009). *Monitoring the Declaration of Commitment on HIV/AIDS: guidelines on construction of core indicators, 2010 reporting*. Geneva, UNAIDS.

Country reports are available at: [http://www.unaids.org/en/KnowledgeCentre/HIVData/CountryProgress/2008\\_NCPI\\_reports.asp](http://www.unaids.org/en/KnowledgeCentre/HIVData/CountryProgress/2008_NCPI_reports.asp).

### MONITORING AND EVALUATION AND NATIONAL SCALE UP OF LEGAL SERVICES

Monitoring and evaluation should occur nationally, as well as at the level of individual legal services. Each level of monitoring and evaluation should relate to and inform each other. Individual legal services can contribute to broader efforts to scale up legal services by ensuring that the evaluation of the service considers the national context and that the service is included in relevant national assessments. Findings of an evaluation can be made available to other legal services and the national AIDS coordinating authority (e.g. national AIDS commission). An evaluation may be able to assess:

- 1 What lessons can be learned from this legal service to benefit others?
- 2 What recommendations can be shared with others interested in improving the quality of and expanding access to HIV-related legal services?
- 3 What is the potential for scaling up this model of HIV-related service provision in other parts of the country, and how can this be accomplished?

National AIDS coordinating authorities should incorporate HIV legal services into their national AIDS plans, and monitor progress towards national scale-up of HIV-related legal services.

## 8. Resource mobilization

### FINANCIAL RESOURCES

#### Possible sources of funds for HIV-related legal services include:

- 1 National governments (the justice sector or the national AIDS programme).<sup>6</sup>
- 2 Private foundations, for example the Open Society Institute and Soros Foundations Network, the Ford Foundation, the Foundation for AIDS Research, the Levi Strauss Foundation and the Elton John AIDS Foundation.
- 3 Bilateral donors, for example USAID, DFID, SIDA, AusAID:
  - HIV programmes.
  - Law and justice, governance and human rights programmes.
- 4 The Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund).
- 5 Multilateral agencies, such as UNDP, UNICEF, ILO, World Bank.
- 6 Universities.
- 7 Law firms (pro bono services and sponsorship).
- 8 Business coalitions on HIV.

It is important to research the requirements of funders such as private foundations. Some guidance is provided in Appendix 6. Proposals should be adapted to the funders' different geographic and thematic priorities that proposals will need to address.

In some cases it may be appropriate to include legal services in a general proposal for HIV prevention, treatment, care and support services submitted to a funder. For example, legal services can be included in a country proposal to the Global Fund that addresses a range of other service needs. In this way, legal services are presented as an integral part of the continuum of HIV prevention, care and support services. Legal services should be integrated into the national HIV strategy for the country so that it can be funded, monitored and evaluated as a part of the national programme.

In addition to approaching grant-making bodies, it may be possible to raise money through charitable donations, corporate sponsorship (e.g. by law firms) and fundraising events. Rather than cash donations, some organizations may be willing to provide free office space, office furniture or computer equipment.

### HUMAN RESOURCES

Legal services may be able to draw on volunteers, including lawyers whose firms allow them to work on cases on a pro bono basis. Law students are often keen to work on public interest cases as volunteers so as to gain experience. Community-based legal services can attract volunteer staff by forming a good relationship with local lawyers' associations and university law schools.

### TECHNICAL RESOURCES

Organizations that have experience with HIV legal services are a good source of advice on establishing and managing services (see Appendix 7).

<sup>6</sup> UNAIDS recommends that all governments ensure that legal services programmes are accessible to populations in need as part of any effective national AIDS response. Governments should ensure that such services are appropriately funded. See: UNAIDS, Office of the United Nations High Commissioner for Human Rights (2006). *International guidelines on HIV/AIDS and human rights*. Geneva, UNAIDS. Available at [http://data.unaids.org/Publications/IRC-pub07/jc1252-internguidelines\\_en.pdf](http://data.unaids.org/Publications/IRC-pub07/jc1252-internguidelines_en.pdf).



Photo credit: UNAIDS/O.O'Hanlon

Country offices and regional offices of United Nations organizations such as UNDP and UNAIDS may also provide access to technical assistance. The UNAIDS country offices coordinate and facilitate access to technical support through the Cosponsors on a wide range of issues.

Short-term technical assistance can be sourced from the UNAIDS-sponsored technical support facilities, which help to match countries' technical assistance needs with technical support from individual consultants or institutions. In addition to governments and UN agencies, technical support facilities can link nongovernmental organizations to technical support. Technical support facilities provide quality-assured assistance in areas such as planning, costing and budgeting, monitoring and evaluation, financial management and organizational development.

#### **Technical support may be available to assist with Global Fund grant applications and implementation from:**

- 1 The technical support facilities.
- 2 The PEPFAR-funded Grant Management Solutions project.
- 3 The German Backup Initiative.
- 4 The International Council of AIDS Service Organizations.

The Civil Society Action Team based at the International Council of AIDS Service Organizations operates as a broker of technical support.

A number of online resources are available and the Aidsplan guides are a good resource (<http://www.aidsplan.org/index.php?page=guides>).

The International Centre for Technical Cooperation on HIV/AIDS (ICTC), based in Brazil, promotes South-to-South technical cooperation among countries in Latin America, the Caribbean and Portuguese-speaking countries in Africa (see UNAIDS (2007). *Making the money work: UNAIDS technical support to countries*. Geneva, UNAIDS).

#### **STRATEGIC PARTNERSHIPS TO SUPPORT RESOURCE MOBILIZATION**

Efforts to establish and scale up legal services can be assisted through forming partnerships with groups in the community that can support funding proposals by confirming the need for HIV legal services to funders. These groups may also be able to mobilize technical resources or human resources.

These may include:

- 1 HIV nongovernmental organizations and community-based organizations;
- 2 Local and national groups or networks of people living with HIV;
- 3 Local and national groups or networks of people who use illicit drugs;
- 4 Local and national groups or networks of sex workers;
- 5 Local or national groups or networks of men who have sex with men and

- 
- transgender people;
  - 6 Local or national groups or networks representing migrants or mobile populations;
  - 7 The national AIDS commission and provincial AIDS authorities;
  - 8 Regional councils of AIDS service organizations and their national focal point organizations;
  - 9 Lawyers associations;
  - 10 University law schools;
  - 11 Human rights organizations;
  - 12 Prisoners' rights organizations;
  - 13 Medical societies, hospital clinics and senior HIV clinicians;
  - 14 Women's groups;
  - 15 Youth groups;
  - 16 Trade unions;
  - 17 Parliamentarians;
  - 18 Media organizations;
  - 19 State agencies such as justice departments and court administrators, prisons authorities and health ministries.

### DESCRIBING PROGRAMME NEEDS TO FUNDERS

A proposal for a legal service programme should set out clearly the rationale for a service, the nature of the service to be funded, staffing requirements, governance of the service and a well-justified budget.

Appendix 3 provides an outline of a funding proposal that provides guidance on how to address these factors.

An HIV-related legal service may be defined in terms of programme elements, such as: the beneficiary population; the kinds of legal issues arising; the expected coverage; and the budget required to provide the kinds of services that will be delivered (legal advice, litigation, community education and outreach, alternative dispute resolution, training, etc.).

#### **Beneficiary population**

This may be defined by any or all of the following.

Geographic factors: some nongovernmental organization legal services may only be available to clients from a specific settlement, township or district. Government legal aid services, such as legal aid offices, may have a broader provincial or national coverage.

Connection to HIV: services may only be available to clients who are people living with or affected by HIV and whose legal problem is directly HIV-related, or where the legal problem is directly relevant to HIV vulnerability.

Membership of key population: some specialized legal services may be only

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available to certain subpopulations, such as men who have sex with men, transgender people, people who use illicit drugs, prisoners, sex workers, youth, homeless people or women.

Income: many legal aid, nongovernmental organization, pro bono or community-based legal services are only available to the unemployed or low-income earners.

### **Kinds of legal issues**

Some services offer advice on both criminal and non-criminal law (civil and public/administrative law). Some services are highly specialized and may only offer advice and assistance on specific issues, such as one or more of the following: criminal matters and prisoners' rights, family and domestic relations, discrimination, tenancy and housing, wills and estates, employment or welfare rights.

Most legal aid or nongovernmental organization legal services will not offer advice on commercial matters. Some services offer advice to organizations such as HIV service organizations, people living with HIV groups and trade unions, as well as to individuals. Consideration will need to be given as to the criteria to be applied to determine whether a case is HIV-related (see Section 2 above).

### **Coverage of legal services**

It is important to define the nature and level of service coverage that a programme might aim to achieve.

The World Health Organization defines coverage as "the proportion of the population in need of an intervention which has received an effective intervention".<sup>7</sup>

A measure of coverage could identify:

- The proportion of the target population reached with any level of legal advice, representation or information over a given period; or
- The proportion of the target population with an HIV-related legal problem that is provided with good quality legal information, advice and representation services over a given period.

Most services will strive to ensure that every person with an HIV-related legal problem in a particular geographic area can have access to legal information, advice and representation. A challenge in trying to identify the optimal level of coverage for HIV legal services is determining the number or proportion of people living with HIV who are requiring legal services at any given time. This can be difficult to assess, as many people from marginalized populations may not know about their legal rights or how to claim them. This means that they may not have been demanding their legal rights in the past. When a legal

<sup>7</sup> Hogarth J (1975). *Glossary of healthcare terminology*. Copenhagen, World Health Organization. Available at <http://whqlibdoc.who.int/publications/9290201231.pdf>.



Photo credit: UNAIDS/O.O'Hanlon

service is introduced to a community, it may generate more demand for its services as communities become educated about legal rights. Increased resources may be required so that the coverage levels of the service can be maintained or increased in response to the increase in demand.

Measurements of coverage should also measure regularity of service. For example, a service that provides advice at a prison once a week is achieving greater coverage than a service that provides advice once a month.

Measurement of coverage should take into account whether the needs identified (by a needs assessment) in the target population are being met by any other nongovernment or government programme. If there are other organizations providing legal services, the coverage objectives for the proposed programme should take this into account and describe any cooperation or sharing between organizations. Coordination between services can improve effectiveness, efficiency and sustainability.

### **Programme budget**

The costs of establishing and maintaining a legal service programme will vary considerably between countries and legal systems. The costs of professional labour vary widely between countries, and the costs that are associated with court processes and other forms of dispute resolution also vary widely.

In developing a budget for a legal programme, it is recommended that an estimate be calculated of the unit costs of legal services (e.g. per advice session) so that an estimate can be made of resources required to maintain the service and to scale it up to meet demand. A standard set of units of activities involved in HIV legal services can be costed (e.g. the cost of an advice session, an appearance in a magistrate's court, an appearance in a higher level court, a mediation session, a community legal information seminar, drafting a will, etc.). Unit costs can be determined by dividing the overall costs by the number of cases. The core costs of running a service also need to be factored in. Core costs can be expected to comprise approximately 10–20% of the overall costs.

### **CORE COSTS**

The budget may need to separate the core operating costs (rent, salary of the director or coordinator and administrative support staff, communication costs) and specific project costs. Personnel costs are often a large proportion of the total costs of the provision of legal services. These costs include recruitment, salaries, payments to short-term contractors and professional development costs such as staff training and attendance at seminars and conferences. Personnel costs will vary widely depending on the service model.

To develop an estimate of costs for inclusion in the budget of a legal service programme, the factors set out in Table 1 could be considered.

**Table 1. ESTIMATING THE COSTS OF AN HIV LEGAL SERVICE**

<b>1. Core costs</b>	<ol style="list-style-type: none"> <li>1 What are the core costs associated with operating the service? For example: office rent; office equipment, including furniture, computer hardware and software, stationery supplies; utilities (power, water); insurance (professional indemnity and public liability insurance); communication costs (telephone, Internet, postage).</li> </ol>
<b>2. Service coordination and management costs</b>	<ol style="list-style-type: none"> <li>1 Will the service employ a director and/or a coordinator?</li> <li>2 How many administrative support staff will be required?</li> <li>3 What level of qualification will be required of non-legal staff (e.g. in financial management and human resources)?</li> <li>4 Will there be recruitment, professional development and salary costs for a director and/or coordinator and administrative support staff?</li> <li>5 What costs will be associated with governance?</li> <li>6 Will committee members involved in governance and management require training or payment of expenses, such as travel, associated with their duties?</li> <li>7 Are there any special costs (training, mentoring, travel) associated with supporting the meaningful involvement of people living with HIV or other community representatives on the governance body and/or management committee?</li> </ol>
<b>3. Non-legal client support costs</b>	<ol style="list-style-type: none"> <li>1 Will the service employ a social worker?</li> <li>2 Will the service require the services of a social worker on an hourly contract?</li> <li>3 If so, at what rate and for how many hours a week?</li> <li>4 Will the service provide emergency funds to support clients, for example to pay for travel costs in order to attend court?</li> </ol>
<b>4. Costs for the provision of legal advice and information</b>	<ol style="list-style-type: none"> <li>1 How many face-to-face advice sessions will be conducted per week?</li> <li>2 How many telephone advice or information sessions will be conducted per week?</li> <li>3 How many hours of a lawyer's time will be required to conduct these advice and information sessions?</li> <li>4 How many lawyers will be required to deliver these advice and information sessions?</li> <li>5 How many lawyers will be volunteers?</li> <li>6 How many lawyers will be salaried staff?</li> <li>7 How many lawyers will be contracted to provide advice on an hourly or daily rate?</li> <li>8 How many paralegals will be involved in providing advice and legal information?</li> <li>9 How many paralegals will be salaried staff?</li> <li>10 How many paralegals will be volunteers?</li> <li>11 What are the estimates of the costs associated with employing a staff team of lawyers and paralegals?</li> </ol>

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These costs may include:

- Recruitment costs;
- Professional insurance;
- Costs to maintain registration as a practising lawyer;
- Professional development costs, such as the training, production and distribution of staff training manual and other resources, membership of law societies and attendance at conferences and seminars.

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**5. Costs of case management: negotiation, alternative dispute resolution and use of traditional systems**

- 1 How many disputes per year will the service aim to resolve through negotiation and alternative dispute resolution?
- 2 On average, how many hours of a lawyer’s or paralegal’s time per case will this require?
- 3 Will these be staff lawyers and paralegals, volunteers or contractors?
- 4 If they are contractors, what hourly rates do they charge?

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**6. Costs of case management: litigation**

- 1 Will the service be managing cases that are taken to court?
- 2 How many court cases per year will the service aim to manage?
- 3 How many days per year will be required for preparation and attending court?
- 4 In which courts are these cases likely to be litigated?
- 5 Are there any special costs involved in taking cases to these courts, for example court filing fees, appeal filing costs, expert witness costs, medical report fees?
- 6 Will representation in these courts be provided by the legal staff of the legal service, or will expert lawyers need to be contracted to conduct court advocacy?
- 7 If expert lawyers are required, what are the standard rates?
- 8 If the case is won, will the client’s legal costs be paid by the other side?

*It is important to explain legal costs to funders, who may be unfamiliar with the unique costs associated with litigation.*

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**7. Costs of case management: wills and legal drafting relating to non-contentious matters**

- 1 Will the service include the drafting of wills and other documents relating to decision-making and the management of financial and medical affairs?
- 2 How many wills and other legal documents per year will the service aim to draft?
- 3 On average, how many hours of a lawyer’s or paralegal’s time per case will this require?
- 4 Will the work be done by staff lawyers and paralegals, volunteer lawyers, volunteer paralegals, students or contractors?
- 5 If they are contractors, what rates do they charge?

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**8. Costs of outreach (to prisons, hospitals, sex work sites, etc.)**

- 1 To which community sites will outreach advice services be provided?
- 2 How often will the outreach services occur?
- 3 On average, how many hours of a lawyer’s or paralegal’s time will this require?

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4	Will outreach services be provided by staff lawyers and paralegals, volunteer lawyers or contractors? If they are contractors, what rates do they charge?
5	Are there special costs associated with providing services at the outreach sites, for example transport, hire of a room?

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<b>9. Costs of education on HIV and the law for communities and the legal sector</b>	<p>1 Will the service provide legal education for communities?</p> <p>2 Will the service provide education on HIV and the law to lawyers, judges, paralegals and other legal sector workers?</p> <p>3 If this is to be provided through workshops, how often will this occur, where and over how many days?</p> <p>4 What is the average cost of venue hire, if required?</p> <p>5 Who will conduct the workshops?</p> <p>6 If they are not to be conducted by staff, what fees are involved?</p> <p>7 What costs are involved in developing training materials and other educational resources for the workshops?</p> <p>8 Who will prepare the materials and what printing costs will be involved?</p> <p>9 What costs will be involved in supporting people living with HIV and other community members to be involved in planning and delivering workshops?</p> <p>10 Will guest speakers such as HIV experts require a fee?</p> <p>11 Will people attending the workshops require financial support for travel, meals and accommodation?</p>
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<b>10. Costs of advocacy, law and policy reform</b>	<p>1 Will the service be conducting public campaigns? If so, how many per year?</p> <p>2 Will campaign materials be produced, for example briefing papers, posters?</p> <p>3 Will the service be conducting research on law and policy?</p> <p>4 What costs are involved in publishing reports on law and policy reform and in printing briefing papers and posters?</p> <p>5 Will research and campaigns work be conducted by staff, volunteers or persons on short-term contracts?</p> <p>6 Will costs be involved in obtaining technical assistance for drafting proposed legislation?</p> <p>7 If contractors will be required, what rates are charged?</p> <p>8 How many reports will the service aim to produce per year?</p> <p>9 Are there special costs involved in campaigns, such as travel to the capital to meet officials and parliamentarians?</p>
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<b>11. Costs of technical assistance</b>	<p>1 Will the service require specialist technical assistance? If so, for how long? For example, will the service need to engage interpreters, a monitoring and evaluation adviser, a gender adviser or consultants to support capacity development?</p> <p>2 Will the service require technical support to establish and maintain computer networks and databases, a web site or other information technology?</p>
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	<b>3</b>	What rates do each of these contractors charge, and how often will they be required?
<b>12. Media, promotion and public relations costs</b>	<b>1</b>	Does the service require the development of pamphlets or other media to advertise and promote the service, its location and opening hours?
	<b>2</b>	What costs are involved in developing, printing and distributing promotional materials?
	<b>3</b>	Does the service intend to have a web site?
	<b>4</b>	What costs are involved in the ongoing maintenance and periodic updating of the website?
<b>13. Monitoring and evaluation costs</b>	<b>1</b>	Has a monitoring and evaluation plan been developed and costed?
	<b>2</b>	What special costs are involved in supporting people living with HIV and key populations to be involved in monitoring and evaluation?
		<i>It is common for monitoring and evaluation costs to represent 5% or more of the total programme costs.</i>

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## 9. Conclusion



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Individuals and organizations working on HIV-related legal service programmes often work in isolation, in complex social and political environments and with limited external support. Working with few and unpredictable resources, pioneers of this work have often achieved enormous gains for communities and for the national responses to HIV. Too often this work has gone unrecognized as a central component of HIV responses that is essential to underpin the effectiveness of prevention, treatment, care and support programmes.

HIV-related legal service programmes must be scaled up and properly implemented, funded, monitored and evaluated if countries are to achieve targets for universal access to prevention, treatment, care and support.

The development of this toolkit coincided with growing momentum and interaction between experts in this field throughout the world. This has been reflected in the rich information exchange at the meetings held in the context of the development of the toolkit. IDLO, UNAIDS and UNDP are grateful for the commitment and creativity of all those who contributed to this Toolkit and who have helped to build the understanding of IDLO, UNAIDS and UNDP of the challenges ahead.

# 10. Appendices

## Appendix 1. EXAMPLE OF A WORKSHOP PROGRAMME FOR HIV-RELATED LEGAL SERVICE PROVIDERS

This example is of a workshop conducted over two days. The programme sensitizes lawyers to the reality of living with HIV and to the social and legal impacts of HIV by focusing on case studies presented by people living with HIV and by members of key populations. The programme includes working groups and participatory discussions.

Workshop planning should include assessment of the needs of participants prior to the finalization of the content and agenda. This then ensures that the information is appropriate for the audience. A record of prior levels of knowledge can then also serve as a useful baseline for evaluating participants' increased knowledge and understanding at the conclusion of the training.

It is recommended that the community representatives who will attend the workshop are also involved in the planning of the programme, in order to ensure their meaningful participation. This may require bringing the community representatives to the training venue a day before the programme starts to ensure their input to the programme structure and content.

This example is adapted from the Workshop for Legal Service Providers, held in 2006 by CARICOM and the Law, Ethics and Human Rights Project of the Pan Caribbean Partnership against HIV/AIDS (see <http://pancap.org>). The programme should be adjusted to suit the local circumstances and in response to suggestions made by community representatives consulted prior to the workshop. If there is a desire to include a session on priority substantive legal issues, this should occur after day 1. The focus of day 1 should be on the lived experiences of the epidemic from the perspective of different communities.

### Objectives

- 1 To increase the capacity of legal service providers to provide services to people living with HIV and key populations.
- 2 To identify the legal issues faced by people living with HIV and key populations, the challenges in the provision of legal services and ways to overcome them.
- 3 To recommend the next steps for supporting legal services providers to address the needs of people living with HIV and key populations.

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### DAY 1

08:30

Registration and distribution of materials.

09:00

Opening and introductions.

Participants introduce themselves. The meeting goals and objectives are explained. The facilitator sets the ground rules.

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10:00

**Session 1: awareness-raising exercise.**

Through experiential exercises, participants come to understand and reflect on how HIV is being transmitted in local communities and on the personal, social and economic challenges faced by people living with HIV.

10:45

Break.

11:00

**Session 2: community perspective and legal issues.**

Social and legal issues faced by people living with HIV. Panel presentation by people living with HIV and key populations, followed by a facilitated discussion.

12:30

Lunch break.

13:30

**Session 3: HIV and AIDS introduction (HIV expert).**

Medical basics, including HIV transmission, treatment and the stages of disease progression; epidemiology and the status of the HIV epidemic in the country; questions and discussion.

14:30

**Session 4: current state of provision of legal services.**

Participants give brief oral presentations on the current state of the provision of legal services to people living with HIV and vulnerable communities in the region: experience to date, and challenges in providing services.

15:00

Break.

15:15

Session 4 continues after the break with a facilitated discussion on the challenges in providing and accessing legal services.

16:45

Close.

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**DAY 2**

09:00

Recap of day 1 and review of the agenda for day 2.

09:15

**Session 5: experiences and examples from other countries.**

A presentation on experiences in providing HIV-related legal services in other countries, including success stories. This session provides an opportunity to direct participants to publications and Internet-based resources.

09:45

**Session 6: working group session on recommendations.**

Development of recommendations for increasing the capacity of legal



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- service providers to provide HIV-related legal services. This will involve breaking up into small groups, with a nominated person to take notes and another nominated person to report back.
- 11:00**  
Break.
- 11:15**  
**Session 7: working groups report back to plenary.**
- 12:30**  
Lunch break.
- 13:30**  
Discussion of issues arising from working group reports.
- 15:30**  
**Session 8: identification of next steps.**  
This session confirms the lead responsibilities and timeframes for any agreed next steps and agrees recommendations for the next workshop for legal service providers.
- 16:00**  
Exit evaluation and debrief with community representatives.  
At the end of the workshop participants are asked to complete and hand in anonymous workshop exit evaluation forms. An extended in-person debriefing session may also be held with the community representatives immediately after the workshop.
- 16:30**  
Close.

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## Appendix 2. EXAMPLE OF TRAINING MODULE SUBJECTS

This example provides suggested subjects that could be covered in the training of legal service providers. The content of training modules should be tailored to the needs and the audience. In designing the programme for a particular audience, it is important that attention be given to both the subjects to be covered and the way information is to be presented. Participatory methods of learning are likely to be more effective than lectures. Involving community representatives can help to ensure that the subjects covered are relevant to the local needs (Appendix 1).

### Module 1: HIV AND SOCIETY

- 1 HIV: medical and social factors.**
  - a Living with HIV: HIV and rights violations in the local community.
  - b Greater involvement of people living with HIV and AIDS (GIPA) as a principle for all HIV services, including the importance of involving people living with HIV and affected communities in managing and evaluating legal services.
  - c Difference between HIV and AIDS.
  - d Modes of transmission.
  - e Illness progression and local life expectancy of people living with HIV.

- f Locally available treatments, their efficacy and side-effects and the need for disease monitoring.
- g Physical needs, disabilities experienced by people with advanced HIV disease, for example access requirements for home-bound, mobility impaired or visually impaired clients.
- h Psychosocial needs: counselling, mental health, care and support.
- i Local epidemiology.
- j Social, biological and cultural drivers of the epidemic (e.g. gender-based violence, condom use, high rates of sexually transmitted infections, mobility, male circumcision).
- k Vulnerability of specific populations, for example people who use illicit drugs, sex workers, men who have sex with men, transgender populations, prisoners, women and children.
- l Stigma and discrimination, including different levels of stigma faced by drug users, sex workers, men who have sex with men and transgender populations.

## 2 HIV and human rights.

- a Explanation of the AIDS paradox and the human rights-based approach to HIV.
- b Description of key populations' history of human rights abuses, poor police relations, experiences of mistreatment by the legal system.
- c How the protection of human rights underpins effective prevention, care, support and treatment.

## Module 2: CLIENTS WITH HIV

### 1 Confidentiality.

- a Confidentiality belongs to the client and is maintained at the client's request and for the client's protection—not because HIV is shameful.
- b Sensitivity of the client's attendance at a specialized HIV service.
- c Client records: details recorded, use of coded information, security of the storage of paper and electronic records.
- d Court appearances, need for client instructions regarding the closure of courts or non-publication orders, and possible media coverage.
- e How information is shared within the legal service.
- f Women's fear of violence or other reprisals if an attendance at a legal service is disclosed to the husband/family.

### 2 Non stigmatizing personal conduct.

- a Body language and personal comfort in engaging with clients.
- b Shaking hands, offering refreshments.
- c Empathizing with clients.
- d Use of non-stigmatizing language (avoid referring to clients as victims or sufferers, avoid judgemental language regarding a person's choice to engage in sex work or use illicit drugs).



Photo credit: UNAIDS/P.Virot

- e Sensitivity in discussing end-of-life issues such as wills and inheritance.
  - f Sensitivity as to how HIV was acquired.
- 3 Alternative dispute resolution options.**
- a Clients with HIV often want to avoid the stress, expense and delay of lengthy court proceedings—health can suffer if proceedings are stressful.
  - b Alternatives to litigation may offer swifter results.
  - c Pros and cons of alternatives need to be understood from the client’s perspective, including confidentiality concerns.
  - d Alternatives may include traditional village courts; however, sometimes village systems disadvantage women or particular subpopulations.
  - e Explanation of the role and content of local customary law.
  - f Conciliation and mediation services may be available.
- 4 HIV legal services.**
- a Specialist HIV legal services available in the local community.
  - b Other sources of legal aid, advocacy and advice including pro bono services and human rights groups.
  - c Support for lawyers providing HIV legal services, including networking and materials, and further training.
- 5 Non-legal referral points.**
- a HIV treatment and care services.
  - b HIV counselling and peer support.
  - c People living with HIV groups; men who have sex with men, transgender people, illicit drug user and sex worker advocacy organizations; women’s organizations.
  - d Financial, housing and employment assistance.

### Module 3: CONTENT OF HIV-RELATED LAW

This session should cover relevant cases and legislation specific to the jurisdiction and the role and content of local customary law, if applicable, especially in relation to family and inheritance issues. This list is by way of example only and should be modified to local needs.

- 1 HIV testing.**
  - a Informed consent.
  - b Compulsory testing powers.
- 2 Confidentiality and privacy.**
  - a Legal and policy protections.
- 3 Discrimination and equality protections.**
  - a Employment conditions and unfair dismissal.
  - b Insurance.
  - c Education.



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- d Health care.
  - e Access to services.
- 4 **Criminal law (and punitive administrative laws).**
    - a HIV transmission offences.
    - b Sex workers.
    - c Men who have sex with men and transgender people.
    - d People who use illicit drugs.
    - e Legality of needle and syringe programmes, including the protection of outreach staff from arrest.
    - f Law enforcement practices, including (where relevant) police harassment, extortion and assault, confession under duress, police entrapment, falsification of evidence.
  - 5 **Treatment rights.**
    - a Laws giving people the right to free or subsidized HIV treatment and clinical care.
    - b Health insurance availability and eligibility.
    - c Post-exposure prophylaxis availability and eligibility.
  - 6 **Violence protection.**
    - a Laws that enable women to obtain protection orders from violence.
    - b Availability and eligibility for post-exposure prophylaxis after sexual assault.
    - c Protection from police assault.
  - 7 **Domestic relations and family law, including custody and property rights.**
  - 8 **Rights to income support, managing debt, welfare, housing and tenancy.**
  - 9 **Wills, estates and succession.**
    - a Laws regarding how to make a will.
    - b Inheritance rights if there is a will and if there is no will.
  - 10 **Role and content of local customary law, if applicable, especially in relation to family and inheritance issues.**

#### Module 4: ENFORCEMENT OPTIONS AND REMEDIES

- 1 Availability of compensation and other remedies.
- 2 Pros and cons of options from the client's perspective.
- 3 Negotiation to resolve complaints.
- 4 Formal complaint mechanisms.
- 5 Court procedures and litigation costs.
- 6 Referral of complaints to prosecutors.
- 7 Low-cost options.
- 8 Arbitration, mediation, conciliation.
- 9 Remedies available from village courts and traditional legal systems.

### Appendix 3. FUNDING PROPOSAL OUTLINE

Elements to be included in a funding proposal for an HIV legal service may include the following:

#### Justification

- 1 Information on the nature, extent and social drivers of the local and national HIV epidemic.
- 2 Information gathered on the extent of the local need for HIV-related legal services, thorough conducting a situation analysis and participatory needs assessment, for example through holding focus groups and surveys of local communities of people living with HIV about their legal needs.
- 3 Any available monitoring and evaluation findings from existing legal or HIV services or other research data on the target population, income levels, data on social exclusion and disadvantage relating to membership of key populations.
- 4 Surveillance data on HIV incidence and HIV prevalence to demonstrate which populations are most affected and that HIV is spreading in the community.
- 5 A description of the legal issues commonly faced by people living with HIV, people affected by HIV and key populations.
- 6 An explanation of how the HIV legal service will contribute to improved public health outcomes and improved human rights outcomes, including reference to any relevant social research. A description of how stigma and discrimination against people living with HIV and key populations contributes to the spread of HIV.
- 7 A clear statement on how legal services will support improved HIV prevention, care, support or treatment and will contribute to improved situations for clients and the community.
- 8 Information on the achievements of existing HIV legal services, including any available evaluation data that demonstrates the effectiveness of this type of service in similar social settings. Information to demonstrate that the proposed service will not duplicate other existing or planned legal services.
- 9 Letters of support, for example from local legal and medical professional associations (law society, HIV physicians group), local and national HIV nongovernmental organizations and community-based organization, the national association of people living with HIV, human rights organizations and United Nations agencies (e.g. UNAIDS, UNDP).

#### Description

- 1 Aims and objectives of the service, including legal advice, legal information and representation services for HIV-related cases, and any additional services such as human rights education, research, documentation of legal problems, and advocacy and campaigning services.
- 2 A description of the size and characteristics of the target population for the service and the geographic catchment area for the service. An estimate of the coverage the service will aim to achieve in terms of the likely annual number of client contacts within the target populations.

- 
- 3 The criteria to be used to select clients, for example income, employment status, the availability of services for people living with HIV, people affected by HIV and key populations. Explanation of how the service will determine whether a client's case is HIV-related.
  - 4 A logical framework (logframe) for the service that demonstrates how outputs will lead to outcomes and impact (for an example, see Appendix 4). A monitoring and evaluation approach should be described.

#### **Governance and management arrangements**

- 1 A description should be provided of the structure of the organization providing the service, including management positions and lines of responsibility and accountability.
- 2 An explanation should be provided of whether the service will be a stand-alone HIV legal service, or a service hosted by an existing organization, or a service completely integrated into an existing organization, and the rationale for the structure.
- 3 A description of the nature of the governance body (e.g. board), any advisory bodies that exist or are proposed, and how local communities of people living with HIV and key populations have a voice in the running of the organization.

#### **Staffing**

- 1 The proposed number and duties of professional and support staff should be outlined. This may include non-legal professionals such as a social workers and temporary professional and technical staff that may need to be contracted at particular times, for example auditors and consultants.
- 2 A funder may require draft job descriptions of key positions.
- 3 An explanation of how the service will achieve efficiencies, including the use of pro bono lawyers, volunteers, students and low-cost paralegal staff.
- 4 Explanation of any other sources of funding or in-kind support, such as any donated staff time or equipment from the private legal sector.

#### **Budget**

- 1 An explanation of all existing sources of funds for the service (if any) and of the amount of funds that have already been secured from other sources.
- 2 An explanation of the resources that the service anticipates to have available at no cost (e.g. volunteers and donated equipment).
- 3 See the detailed description in Table 1 of the costs that will need to be taken into account for guidance on preparing a budget to establish and maintain a legal service.

### **Appendix 4. LOGFRAME AND MONITORING AND EVALUATION FRAMEWORK**

This appendix describes a logframe approach to developing a monitoring and evaluation framework for a legal service programme. This approach requires programmes to have clearly defined objectives, outputs and



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outcomes and objectively verifiable performance indicators against which progress can be measured. The nature of a logframe will depend on the service model that is planned. The table is intended as a source of ideas, rather than a model to be applied in all cases. A monitoring and evaluation framework can also provide details of data sources, who is responsible for collecting data and how often it is collected and analysed.

### Service goal

The goal of the service is to provide an enabling legal environment for effective HIV responses.

### Service objectives

The objectives of the service are to provide:

- 1 HIV-related legal information, advice and representation;
- 2 Education on HIV-related human rights and legal rights; and
- 3 Engagement in advocacy for changes to HIV-related laws, policies and practices.

### Activities

#### Information, advice and representation

- a To provide information and legal advice to people living with and affected by HIV and key populations that relate to issues which affect their vulnerability to HIV infection or the impact of HIV.
- b To provide legal representation, including court appearances in urgent cases to prevent serious violations of human rights; for example, violence protection, eviction, removal from school.
- c To prepare wills and other legal documents that relate to managing property, finances and care arrangements.
- d To provide support to clients in accessing alternative dispute resolution processes, including traditional legal systems.
- e To engage in strategic litigation/test cases that have a potential to result in widespread improvements to law and policy to the advantage of many in the community.
- f To provide outreach to clients in community settings and prisons and to support paralegal and volunteer staff to deliver effective legal services in community settings.

#### Human rights education

- a To engage in community legal education to raise awareness of human rights and legal rights and how to enforce rights through formal and informal means.
- b To educate lawyers, magistrates, judges, police and other professionals working in the legal system about HIV and human rights.
- c To educate traditional/faith-based leaders about human rights norms, including gender equality and the impact of inequalities in increasing HIV vulnerability.

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- d To support the involvement of people living with HIV as educators in law and human rights.
  - e To hold forums on human rights and HIV, bringing together different sectors, for example law enforcement officials, representatives of public health institutions, government authorities and journalists.

#### Advocacy

- a To engage in advocacy regarding changes to practices, laws and policies and for increased resources informed by cases that come to the service.
- b To conduct research and analysis of trends in cases coming to the attention of the service and research on laws and legal policy to inform campaigning.
- c To document and analyse the most common forms of human rights abuse against clients living with and affected by HIV and key populations so as to inform legal and policy reform.
- d To maintain a national clearinghouse to document cases of HIV-related human rights abuse so as to provide evidence for advocacy campaigns.
- e To maintain a national network of HIV and human rights advocates.

### Appendix 5. OUTCOME EVALUATION AND PROCESS EVALUATION

It can be useful to monitor and evaluate both outcomes and processes.

#### Outcome evaluation

An outcome evaluation assesses whether the legal service has resulted in the desired outcomes for clients and the community. Information about the outcomes of a legal service can be an important tool for advocacy. This information can assist legal services to persuade funders, the government and the general public that legal services that enforce the legal rights of marginalized populations are a central part of an effective HIV response.

Examples of outcome indicators from approved grants of the Global Fund for HIV-related legal services include:

- The number of persons from the target population (judiciary, health care, people living with HIV, trade union members) who have knowledge about the law.
- Percentage of people living with HIV who state that their human rights are respected.
- Percentage of people living with HIV who know their rights based on law.

It is important to collect baseline data so that trends can be measured.

#### Process evaluation

Process evaluation focuses on examining and describing the way a legal service operates. It asks how well the service is functioning and whether services have been implemented as planned. It considers the management of the organization,

**Table 2. LOGFRAME FOR AN HIV LEGAL SERVICE**  
**Goal: enabling a legal environment for effective HIV responses**

HOW		WHO? WHERE?	WHAT DO WE WANT? WHY?	
Activities	Outputs	Reach	Outcomes	Long-term impacts
<b>Objective 1. Advice and representation</b>				
Dispute resolution procedures engaged	People living with HIV Families of people living with HIV	Increased demands by people living with HIV and key populations for justice	People living with and affected by HIV and key populations enjoy freedom from violence and discrimination	
Advice provided by lawyers and paralegals	People provided with accurate advice and quality representation	Sex workers People who use illicit drugs Prisoners	People living with HIV and key populations enforce rights through formal and informal processes and are empowered to advocate for their rights	People living with and affected by HIV and key populations enjoy improved quality of life and are better able to claim their rights, including access to prevention, treatment, care and support
Telephone advice	People provided with wills, powers of attorney and other estate planning documents	Men who have sex with men and transgender people Migrant workers, seafarers		
Court representation				
Mediation, conciliation and other alternatives to court	Organizations of people living with HIV receive advice on registration and governance and on legal issues relating to the provision of services to people who use illicit drugs, sex workers, men who have sex with men and transgender people	Community-based organizations	People living with HIV and key populations have access to prevention, testing, treatment care and support services without fear of stigma and discrimination	Women and girls improve their social and economic status
Assistance with informal systems/traditional village courts		Urban settlements Rural and remote populations		
Community outreach			Organizations representing people living with HIV and vulnerable groups able to participate effectively in national HIV responses	Stigma relating to HIV and key populations is reduced
Wills and documents drafted, birth registration				
Test cases identified and taken to court	Test cases concluded		Laws and policies that benefit people living with HIV improved as a result of test cases	
<b>Objective 2. Human rights education</b>				
Information materials Fact sheets	People provided with training and information on their legal rights and on how to enforce them	People living with HIV People affected by HIV Key populations: women, sex workers, men who have sex with men, people who use illicit drugs	Quality of legal and advocacy services improved	HIV incidence reduced
Community education	Paralegals, lawyers and judiciary, nongovernmental organizations/ human rights groups trained in HIV and human rights	Lawyers, paralegals, judges, police, prosecutors	Capacity of legal profession to address HIV through high-quality services improved	Enabling environment for prevention, care support and treatment
Street theatre and community events			Sustainable and affordable models of legal education and empowerment of people living with HIV, people affected by HIV and key populations	Improved quality of life for people living with HIV
Training sessions, training of trainers	Media, officials, police, health-care workers have increased awareness of HIV and human rights	Human rights nongovernmental organizations		
Practice manuals		Media		
Reference manual for judges		Parliamentarians		
Law journal articles Briefing papers	Nongovernmental organizations and human rights groups trained in HIV	Health-care workers Officials		
Web sites, e-mail lists	Professional networks of HIV legal service providers established			
Conferences, seminars				
<b>Objective 3. Advocacy and law reform</b>				
Clearinghouse of case studies established; research analysing case trends produced; advocacy materials produced and disseminated; reform campaigns conducted; web-based campaigns; media exposure of rights abuses	Parliamentarians Senior officials in relevant government departments	Human rights groups	Human-rights-based law and policy reform Decriminalization, for example of HIV transmission or exposure and certain behaviours (as relevant), such as sex work, same-sex practices or the personal use of certain drugs; enforceable treatment and prevention rights; establishment of a legal framework for the provision of prevention commodities to key populations (e.g. condoms, needles and syringes and methadone or other opioid substitution therapies)	
Collation of case studies				
Analysis of cases				
Policy research				
Production of campaign materials to brief the media and parliamentarians				
Technical assistance or comments provided on existing or draft laws, policies and practices				

**Table 3. MONITORING AND EVALUATION FRAMEWORK: EXAMPLES OF PERFORMANCE INDICATORS**  
**Goal: enabling legal environment for effective HIV responses**

Activities	Outputs	Indicators
<b>Objective 1.</b> <b>Advice and representation</b>  Advice provided by lawyers and paralegals  Telephone advice  Court representation  Mediation, conciliation and other alternatives to court  Assistance with informal systems/traditional village courts  Community outreach  Drafting of wills and other legal documents  Strategic litigation—test cases identified and taken to court	Disputes resolved  People provided with accurate advice and quality representation  People provided with wills, powers of attorney and other estate planning documents  Organizations of people living with HIV receive advice on registration and governance and on how to conduct outreach to people who use illicit drugs, sex workers, transgender people and men who have sex with men  Test cases concluded	Data collected should be disaggregated where possible by gender. Number of: <ul style="list-style-type: none"> <li>• People living with HIV and key populations (women, men and transgender people) who attend consultations with lawyers/paralegals</li> <li>• People living with HIV and key populations (women, men and transgender people) who are represented</li> <li>• People living with HIV (women, men and transgender people) who have wills/estate planning documents in place</li> <li>• People living with HIV and key populations (women, men and transgender people) who are satisfied with the outcome of the legal service</li> <li>• People living with HIV and key populations (women, men and transgender people) who receive outreach/education and report crimes/abuse to the police, go to court and demand justice</li> <li>• Community-based organizations receiving advice, consultations, representation</li> <li>• Disputes resolved</li> <li>• Outreach services established and advice provided at outreach sites</li> </ul> Level of client satisfaction with advice and representation: surveys, focus groups, semi-structured interviews; percentage of client problems that a legal service is able to resolve to the client's satisfaction Number of cases in which judgement refers to statements of international human rights law Number of successful test cases concluded: <ul style="list-style-type: none"> <li>• That establish a new legal rule that benefits people living with HIV;</li> <li>• That address a discriminatory policy or practice</li> </ul> Increased uptake of harm reduction services Increased reporting to police of incidents of violence against women
<b>Objective 2.</b> <b>Human rights education</b>  Information materials Fact sheets Community education  Street theatre and community events  Training sessions, training of trainers  Practice manuals Reference manual for judges  Law journal articles Briefing papers  Web sites, e-mail lists Conferences, seminars	People provided with training and information on their legal rights and how to enforce them  Paralegals, lawyers and judiciary and nongovernmental organizations/human rights groups trained in HIV and human rights  Media, officials, police and other sectors increase awareness of HIV and human rights  Nongovernmental organizations and human rights groups trained in HIV law  Professional networks of HIV legal service providers established	Number of men, women and transgender people who have received training on legal rights and who report improved knowledge and confidence in enforcing their rights  Level of knowledge of law and human rights of target audiences  Assessment data/ratings of materials used against quality standards; for example, accessible, accurate, culturally appropriate language and user-friendly formats  Most significant change stories from people living with HIV who have received human rights education  Numbers of lawyers, paralegals, judges, police, prosecutors, human rights advocates and religious leaders trained Number of traditional leaders sensitized about HIV, gender, discrimination and human rights  Level of satisfaction with training: pre-training and post-training surveys, focus groups  Percentage of trained paralegals, lawyers confident in understanding the needs and rights of people living with HIV and able to advise on HIV-related law  Number of people living with HIV provided with 'train the trainer' support and involved in delivering training
<b>Objective 3.</b> <b>Advocacy and law reform</b>  Collation of case studies  Analysis of cases  Policy research  Advocacy and campaigning  Production of campaign materials to brief the media and parliamentarians	Clearinghouse established  Research analysing case trends produced  Advocacy materials disseminated  Reform campaigns conducted  Web-based campaigns  Media exposure of rights abuses	Number of advocacy issues identified and raised through campaigning  Number, nature and reach of systemic changes that have resulted from strategic litigation and reform campaigns  Number of parliamentarians and officials reached with advocacy messages: meetings, seminars, mailings  Incidents of positive media exposure on key HIV discrimination issues  Media conferences held and resulting coverage, resulting in changes in law and policy

and how policies have been developed and the services implemented. A process evaluation describes the activities the legal service has engaged in, the tasks it has performed, the clients it has served and the scope of any additional activities, such as education, research and advocacy.

Process indicators should be defined so that data are collected that measure what was done, with whom, when, in what settings and with what level of quality. A process evaluation can analyse the data gathered through the monitoring of these factors to assess how well the programme is being implemented. A process evaluation can make recommendations to adjust how legal services are delivered and to influence the ongoing development of a legal service.

Examples of process indicators from approved Global Fund grants to HIV-related legal services include:

- The number of people living with HIV who have received legal services.
- The number of people living with HIV who have complained over mistreatment to the citizens defence bureau.
- The number of people living with HIV, their families and friends who have received legal defence services and/or information regarding their rights.
- The number of people trained on tolerance and non-discrimination, sexual and reproductive rights, civic leadership participation.
- The number of materials on law produced and distributed to different target groups (employers, health-care personnel, people living with HIV, trade union members).
- The number of cases of HIV-related human rights violations documented by people living with HIV reached and referred to an appropriate agency.
- The number of people living with HIV trained in domestic and international law relating to human rights, stigma and discrimination.

#### Example: outcome evaluation

A legal service provides advice to sex workers and advocates the rights of sex workers to police. The service aims to increase the knowledge of sex workers about their legal rights and to reduce the occurrence of police harassment of sex workers. The service monitors progress towards this outcome by conducting an annual survey of a sample of sex workers from the client community. Before the services commenced, a baseline survey was undertaken. At the end of the third year of the service's operation, an outcome evaluation is conducted. The results of the annual surveys are analysed in the third year in order to identify trends and to inform the findings and recommendations of the outcome evaluation.

Examples of outcome indicators for this service are:

- Percentage of the sample of sex workers surveyed who accurately know their arrest rights after attending the legal service.
- Percentage of the sample of sex workers surveyed who report that they are able to carry condoms without being harassed by the police.

Some funders prefer a flexible approach whereby indicators may change as the legal service programme evolves. For example, the most significant change monitoring and evaluation method (see Section 7 text box) does not require fixed indicators.

#### Appendix 6. INFORMATION ABOUT FUNDERS

The following is information about a few of the potential sources of funds for HIV-related legal services. There are other sources that may be available. The national AIDS commission or

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national AIDS coordinating authority may have further information about potential sources of funds for HIV-related programmes.

### **Elton John AIDS Foundation (EJAF)**

There are two Elton John AIDS Foundations, one based in the USA (EJAF-US) and one based in the United Kingdom (EJAF-UK).

EJAF-US (<http://www.ejaf.org>) awards grants to community-based projects in the Americas and the Caribbean. EJAF grants are provided to projects that fit within EJAF's priority areas. EJAF focuses on supporting community-based HIV prevention education programmes, harm reduction programmes and direct services to persons living with HIV, especially populations with special needs. Direct services include HIV-related physical and mental health services, HIV testing and counselling, street outreach and education, assisted living services, social service coordination, community volunteer recruitment and support, health literacy, treatment access and advocacy. Any not-for-profit organization located in the USA, Canada, the Caribbean and Central and South America may apply. To apply, organizations must complete an online application with a summary description of the proposed programme, proof of charitable status and audited financial statements. EJAF-US will not fund capital costs, conferences, educational courses or research programmes.

EJAF-UK (<http://www.ejaf.com>) focuses its grant-making on programmes in Africa, Asia and Europe. Country priorities may change from year to year. In 2009 priority countries were Bangladesh, Cambodia, India, Ireland, Kenya, Lesotho, Malawi, Nepal, the Russian Federation, South Africa, United Republic of Tanzania, Uganda, United Kingdom, Ukraine and Zambia. The EJAF-UK mission is to empower people infected, affected and at risk of HIV, to alleviate their physical, emotional and financial hardship, enabling them to improve their quality of life, live with dignity and exercise self-determination. The EJAF-UK vision for the future also includes championing the rights of HIV-positive people living on the margins of society. Grants help people to receive medical and social care, food, training, housing, legal protection, counselling and emotional support. Funding is centred on the following themes: women and children, positive lives, livelihoods, vulnerable groups and innovation.

### **Global Fund to Fight AIDS, Tuberculosis and Malaria**

See <http://www.theglobalfund.org>.

See also: *UNAIDS/WHO resource Kit for writing Global Fund proposals* and the Technical Notes on Human Rights and Law, civil society strengthening, stigma and discrimination and other relevant issues at <http://www.who.int/hiv/pub/toolkits/GF-Resourcekit/en>.

The Global Fund is a global public/private partnership dedicated to attracting and disbursing additional resources to prevent and treat HIV, tuberculosis and malaria. This partnership between governments, civil society, the private sector and affected communities has become a dominant source of finance for HIV



Photo credit: UNAIDS/A.Gutman

responses in many countries. It provides a quarter of all international financing for AIDS globally.

The Global Fund currently funds a number of programmes that include the provision of HIV-related legal services. To explore whether a proposal could be submitted for an HIV legal service in a particular country, contact should be made with the country coordinating mechanism (CCM) of the Global Fund. At the country level, the CCM is a partnership composed of all key stakeholders in a country's response to the three diseases. The CCM does not handle Global Fund financing itself, but is responsible for submitting proposals to the Global Fund, nominating the entities accountable for administering the funding and overseeing grant implementation. The Global Fund is also exploring direct funding of national AIDS strategies. In the future, legal services could be increasingly supported through this avenue.

#### **Ford Foundation**

See <http://www.fordfound.org/>.

The Ford Foundation's Peace and Social Justice programme has themes relating to governance and civil society and human rights. Reducing discrimination and exclusion based on HIV is a focus area under the human rights theme. The Foundation's regional offices have regional strategies that take into account local challenges and opportunities. The Ford Foundation makes grants to develop new ideas and to strengthen organizations that reduce poverty and injustice and promote democratic values, international cooperation and human achievement. Ford Foundation staff consult with practitioners, researchers, policy-makers and others to identify initiatives that might contribute to progress.

Opportunities that prospective grantee organizations provide for women and other disadvantaged groups are considered in evaluating proposals. Applications are considered throughout the year. The Ford Foundation aims to give applicants an indication of whether a proposal is within the Ford Foundation's programme interests and budget limitations within six weeks of submission of an application. If the proposal is being considered for a grant, the approval process is generally completed within three months, but can take longer depending on the complexity of the project. The approval process involves site visits, grant negotiations, administrative and legal review and presentation of the grant for approval.

Grant inquiries briefly outlining the intended use of funds can be made on the foundation's web site at <http://www.fordfound.org/grants/inquiry/>

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**Foundation for AIDS Research (amfAR)**

See <http://www.amfar.org/msm/>.

The MSM Initiative of the Foundation for AIDS Research provides small grants known as community awards to organizations that provide services to men who have sex with men and transgender people. The MSM Initiative is a global programme that aims to reduce HIV infection and transmission among men who have sex with men by supporting grassroots efforts to provide HIV prevention, care and support. The MSM Initiative has three goals: support efforts in resource-limited countries to create and sustain peer-driven HIV programmes for men who have sex with men; build awareness and understanding of HIV epidemics among men who have sex with men and their communities around the world; develop strong policies and increase public funding for HIV-related services to men who have sex with men in developing countries. Information about country priorities and the timing of grant rounds can be obtained by e-mailing the foundation ([grants@amfar.org](mailto:grants@amfar.org)).

**Levi Strauss Foundation**

See <http://www.levistrauss.com/>.

The Levi Strauss Foundation has supported legal aid and policy advocacy efforts to address discrimination on the basis of HIV status in Canada, China, India, South Africa, Thailand and the USA. The foundation also supports efforts to build the advocacy capacity of the communities around the world that bear the brunt of HIV stigma and discrimination, including injecting drug users and men who have sex with men.

**Open Society Institute**

See <http://www.soros.org>.

The Open Society Institute (OSI) is a private grant-making foundation that aims to shape public policy to promote democratic governance, human rights, and economic, legal and social reform. In 2005, the OSI Public Health Program launched the Law and Health Initiative (LAHI). LAHI collaborates with other parts of the OSI Public Health Program such as the International Harm Reduction Development Program, the International Palliative Care Initiative and the Sexual Health and Rights Project, as well as numerous Soros Foundations in sub-Saharan Africa and the former Soviet Union, to support the integration of legal and paralegal advocacy into community-based health services, as well as litigation and law reform related to public health.

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## Appendix 7. BIBLIOGRAPHY AND FURTHER READING

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**HIV-related legal services****AIDS Law Project (South Africa)**<http://www.alp.org.za>**AIDS Legal Council of Chicago (USA)**<http://www.aidslegal.com>**ALTERLAW (Philippines)**<http://www.alternativelawgroups.org>**Botswana Network on Ethics, Law and HIV/AIDS (BONELA)**<http://www.bonela.org>**Brazilian Interdisciplinary Aids Association (ABIA)**<http://www.abiaids.org.br>**Center for HIV Law and Policy (USA)**<http://www.hivlawandpolicy.org>**Directory of Legal Resources for People with HIV/AIDS (USA)**<http://www.abanet.org/AIDS/publications/aidsdirectory.pdf>**Grupo Pela Vidda (Brazil)**<http://www.pelavidda.org.br>**HIV/AIDS Legal Centre Inc. (Australia)**<http://halc.org.au>**HIV/AIDS Legal Services Alliance (HALSA) (USA)**<http://www.halsaservices.org>**Korekata AIDS Law Centre (China)**<http://www.korekata.org>**Legal Assistance Centre AIDS Law Unit (Namibia)**<http://www.lac.org.na>**Lawyers Collective HIV/AIDS Unit (India)**<http://www.lawyerscollective.org>**Uganda Network on Law, Ethics and HIV/AIDS (UGANET)**<http://www.uganet.org>**Women and Law in Southern Africa Research Trust (WLSA)**<http://www.wlsa.org.zm>**Zambia AIDS Law Research and Advocacy Network (ZARAN)**<http://www.zaran.org>**Other sources of information on HIV-related legal services****AIDSLEX**<http://www.aidslex.org>**AIDS Rights Alliance of Southern Africa**<http://www.arasa.info>**Canadian HIV/AIDS Legal Network**<http://www.aidslaw.ca>**Human Rights Watch**<http://www.hrw.org>**IDLO**<http://www.idlo.org/hivhealthlaw>

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**Open Society Institute**

<http://www.soros.org>

**UNAIDS**

<http://www.unaids.org>

**UNDP**

<http://www.undp.org>

**Sources of technical support****UNAIDS Technical Support Facilities**

<http://www.unaids.org/en/CountryResponses/TechnicalSupport/TSF/default.asp>

E-mail: technical support facilities Southern Africa

[info@tsfsouthernafrica.com](mailto:info@tsfsouthernafrica.com)

technical support facilities Eastern Africa

[tsfeasternafrica@amrefhq.org](mailto:tsfeasternafrica@amrefhq.org)

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[info@tsfseap.org](mailto:info@tsfseap.org)

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[cict@aids.gov.br](mailto:cict@aids.gov.br)

**Civil Society Action Team**

<http://www.icaso.org/csat>

**German Backup Initiative**

<http://www.gtz.de/en/themen/soziale-entwicklung/soziale-sicherheit/4356.htm>

**Grant Management Solutions**

<http://www.gmsproject.org>

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