



THE PROPOSED HIV LAW: PROTECTING THE RIGHT TO EDUCATION OF CHILDREN AFFECTED BY HIV

“My child has a problem at school. She has HIV. And other school children are asked not to play with her. So she feels depressed and I have to encourage her.” – PLHIV mother with a daughter from Yangon

Source: People Living with HIV Stigma Index 2016

HIV-related discrimination in schools and education settings can have detrimental effects for children living with HIV or have a family member who has HIV. Discrimination in schools, such as being asked to sit at the back row or being prohibited to play with others, makes it difficult for children to fully engage with their teachers and peers. Some children also choose not to disclose their HIV status to others to avoid discrimination.

Aside from discrimination, socio-economic factors can also affect a child's educational status. Findings from the "Socio-Economic Impact of People Living with HIV at the Household Level in Myanmar (2016)" showed that children in HIV-affected households were more likely to have missed more than 10 days of school in a year than those in non-affected households, especially for young children and those in rural areas. They were also twice more likely to have missed school because they had to contribute to the household income or help with household chores.

Case Study:

Aung Linn (not his real name), is a Grade 10 student from Myitkyina who is well-loved by his teachers and friends. He didn't disclose to his teacher and classmates that he has HIV but regularly went to the clinic to get ART for himself.

On one occasion, Aung Linn's father tried to get the ART from the clinic for him, as he was busy studying for an exam. The doctor gave the ART for one week and asked Aung Linn's father to bring his son next week. On the appointed date, his father tried again to get the ART for him as the schedule coincided with the first day of his exam. The doctor refused to give the medicine

and insisted that the ART can only be issued to the client. Aung Linn, believing that his health and taking ART were more important than his education, decided to skip the exam. The incident made him assume that there would always be circumstances wherein he would have to choose between his health and education and believing that his health is more important, decided to quit school completely despite his family's plea to continue his studies. Finally, his father signed the form at school to quit.

This case study shows the psychological stress of a student who decided to quit school out of fear of losing access to the life-saving drug.

How the proposed HIV law can protect the right to education of children affected by HIV

- ◆ The proposed HIV law protects the right to education of children affected by HIV by making it unlawful for institutions, facilities or services that provide child care, education or training to refuse admission or deny a child access to benefits and services based on his/her HIV status.
- ◆ Likewise, segregation and expulsion from an educational institution or child care facility is deemed unlawful and violation of the proposed law can lead to administrative penalty. If anyone refuses to follow the administrative order, he or she will be referred to the relevant ministry which will handle the case.

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THE PROPOSED HIV LAW: ENSURING EQUAL ACCESS AND TREATMENT IN PROVIDING HEALTH SERVICES FOR PLHIV

“If you deliver a baby requiring PMTCT, it costs double of the usual amount. If you have an accident it also costs double.” – Sex Worker getting ART

Source: People Living with HIV Stigma Index 2016

Although majority of PLHIV do not experience absolute denial of health services, they experience inequitable treatment in healthcare settings such as unnecessarily being placed in isolation or being charged higher than standard fees. The extra fees were often said to be for cleaning and laundry services as well as sterilization of medical instruments used by PLHIV patients.

Case Study 1:

Thidar (not her real name) was admitted to a public hospital to be treated for respiratory distress and diarrhea. She had given birth 5 months ago with the PMTCT programme and disclosed to the doctor that she was taking ART. The doctor said that the disclosure of her status to him was very good and informed her that there was a separate place for PLHIV. She was then placed in a room with patients that have tuberculosis, diarrhea and dysentery.

Since Thidar was breastfeeding at that time, she had to bring her baby with her and both of them were exposed to the risk of acquiring other infectious diseases. Although her condition had worsened, she requested to be discharged from the hospital as she was afraid that she and her baby would also get infected by TB, diarrhea and dysentery. There was also little ventilation in the room. She had such a bad experience at the hospital that she does not want to seek healthcare services at the hospital anymore.

Case Study 2:

A 12-year-old child, Ma Po Po, experiencing toothache went to the hospital with her mother to have it checked by a dentist. As the child's medical history was being taken, her mother disclosed that she has been taking ART for more than 10 years. Ma Po Po arrived early in the hospital but was examined by the doctor last. She was treated last due to her HIV status. When she again suffered from toothache, she didn't want to go to the doctor anymore as she was psychologically traumatized by her experience.

How the proposed HIV law can help ensure equal access and treatment in providing health services

- ◆ The proposed HIV law contains provisions that aim to protect PLHIV from discriminatory acts that can further worsen their health condition such as refusing or withdrawing health care services and medicines; subjecting a person to detriment due to the conditions of which health care services were provided; isolating or segregating a person and charging a higher fee for medical services.
- ◆ Under the proposed law, an administrative complaint can be filed to a committee if a person commits the above mentioned unlawful acts, upon conviction, the said person will be referred to the relevant ministry which will handle the case.
- ◆ The proposed HIV law, by addressing discrimination in healthcare settings, can also help sustain PLHIV in treatment by providing an environment where they would feel safe and taken care of without fear of being discriminated against. As the above case studies showed, experiences of discrimination at clinics and hospitals deter PLHIV from seeking medical attention when they need it.

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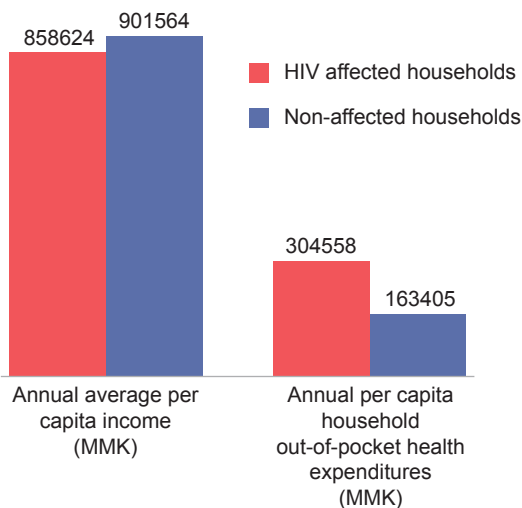
THE PROPOSED HIV LAW: SECURING EMPLOYMENT AND WORK OPPORTUNITIES FOR PLHIV

"I had served as a cook for five years with 80,000 Kyats per month. Not knowing who told them, once they knew that I was on ART, they gave me 4,000 kyats and forced me out on the spot." – PLHIV from Myitkyina

Source: People Living with HIV Stigma Index 2016

Stigma and discrimination against PLHIV in the workplace can result in loss of jobs and income sources. The "2016 People Living with HIV Stigma Index" reveals that approximately 27% of PLHIV have lost employment or income with the most common perceived reason being their HIV status. 11% of PLHIV respondents were also denied employment or a work opportunity because of their HIV status.

People living with HIV can still work, contribute expertise in their respective fields and do not need to depend on others to provide basic necessities for themselves and their families. Having regular sources of income is crucial, as they need to maintain treatment in addition to paying for basic commodities such as food and shelter.



Results of "The Socio-Economic Impact of People Living with HIV at the Household Level in Myanmar (2016)" show that households with a family member who has HIV have lower incomes and pay more out-of-pocket health expenditures than non-affected households.

HIV-affected households were also more likely to be in debt compared to non-affected households (32.6% vs 23.6%).

Case Study:

Kyaw Win (not his real name) worked as a mechanic for a chopstick factory. While he was doing the usual procedures for operating a machine, it suddenly malfunctioned, severing his finger in the process. The employer sent him to a private hospital to have his injured hand treated.

After recovering from his injury, he went back to work but the factory owner sent a co-worker to tell him not to come to work anymore. Kyaw Win's mother called and met with the owner to ask for the reason of her son's sudden job termination. She was informed that it was due to his HIV status. The employer explained that at the hospital, Kyaw Win was tested for HIV and the doctor informed the employer that he was HIV positive. Kyaw Win was not informed that he was tested for HIV. The mother replied that she knew that her son is HIV positive, is taking treatment and poses no harm or injury to other people.

Kyaw Win's mother went to a township labour office to inform the director about the situation and try to arrange for an appointment with the employer. The employer however said that he cannot attend the scheduled appointment as he would be travelling. The township labour officer explained that based on the compensation policy for injuries, her son can get the worth of two to three months' salary, but that he was ineligible for it because he was treated at a private hospital. There was no more further action on the case.

How the proposed HIV law can help secure employment and work opportunities for PLHIV

- ◆ The proposed HIV law contains provisions making it unlawful to discriminate a person on the grounds of his/her HIV status when offering employment, terminating a person from employment without reasonable grounds, giving job promotions and accepting a worker in trainings and workshops.
- ◆ An administrative complaint can be submitted to the committee to address violations of the proposed HIV law.
- ◆ A person who breaches orders will be referred to the relevant ministry which will handle the case.

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THE PROPOSED HIV LAW: SAFEGUARDING THE RIGHT TO PRIVACY, PERSONAL AUTONOMY AND INTEGRITY OF PLHIV

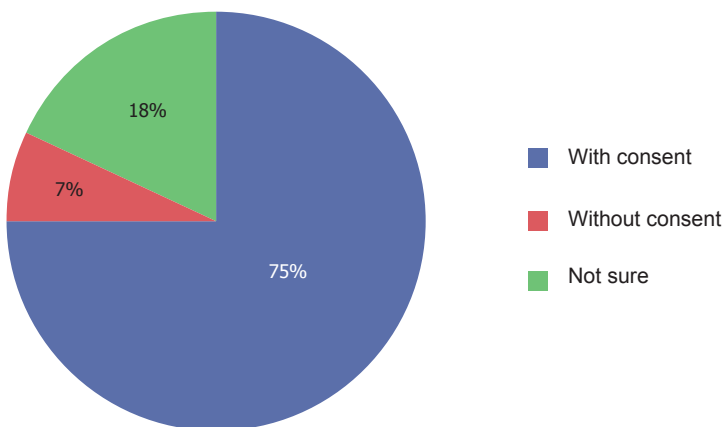
"I do not disclose to anyone, being afraid of discrimination." – PLHIV from Magwe

Source: People Living with HIV Stigma Index 2016

Stigma and discrimination make it difficult for PLHIV to disclose their status to others, as they fear receiving negative reactions from loved ones, losing employment, facing violence and other consequences. Results of the "2016 People Living with HIV Stigma Index" show that nearly one-third (27%) of PLHIV respondents have not disclosed to anyone.

Given the potential social and economic implications of disclosing one's HIV status, it is important to protect the privacy, personal autonomy and integrity of PLHIV. This can be done by ensuring confidentiality of their health status and getting informed consent before administering HIV tests.

Disclosure of HIV status by health care worker 2016



Source: People Living with HIV Stigma Index 2016

In terms of HIV testing, half of the respondents reported that the decision to be tested was made independently and voluntarily. However nearly one-third of respondents (32%) said that they were pressured to undergo testing and the remaining 17% were coerced into testing or were tested without their knowledge.

How the proposed HIV law can help safeguard right to privacy, personal autonomy and integrity of PLHIV

- ◆ The proposed HIV law ensures confidentiality of a person's HIV status by making it unlawful for another person to disclose HIV-related information that has been imparted in confidence except when the PLHIV provides informed consent or under other special circumstances defined in the law.
- ◆ The proposed HIV law also protects the right of a person's autonomy by making it unlawful for a health care worker to administer an HIV test without informed consent from the person or a representative of the person to be tested.

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PROTECTING THE FUNDAMENTAL RIGHTS OF PEOPLE AFFECTED BY HIV

Under the Constitution of the Republic of the Union of Myanmar (2008), every citizen - including people living with HIV - has the right to work, access health care, and receive basic education.

However, stigma and discrimination remains, preventing people living with HIV (PLHIV) from accessing health services, maintaining employment and receiving education – denying them of the fundamental rights that all Myanmar citizens are entitled to under the law.

Benefits of the Proposed HIV Law

Protecting the rights of PLHIV will provide benefits not only to people affected by HIV, but the community and the country as a whole. Removing barriers to access health care services for one, would encourage people to sustain treatment, reduce the chances of transmitting HIV to others and in turn slow down the spread of HIV.

The following table shows how the proposed HIV law will protect PLHIV rights and contribute to the development of the country:

What the proposed law aims to do:	Benefits to PLHIV and their families	Benefits to the community and the country
<ul style="list-style-type: none"> ▪ Ensure equal access to prevention and treatment in providing health services for PLHIV ▪ Safeguard the right to privacy, personal autonomy and integrity of PLHIV 	<ul style="list-style-type: none"> ▪ PLHIV will feel safe and trust health care workers, making them more likely to seek and sustain treatment as well as access prevention measures ▪ Sustained treatment will allow PLHIV to live healthy and productive lives ▪ Key populations at high risk of acquiring HIV, such as female sex workers, people who inject drugs and men who have sex with men, will also be more likely to seek prevention and treatment services 	<ul style="list-style-type: none"> ▪ Reduction in new HIV infections ▪ Reduction in AIDS - related deaths ▪ Enabling legal environment for reaching 90-90-90 targets ▪ Contributes to the achievement of the government’s goal to end the AIDS epidemic in Myanmar by 2030 ▪ Supports government’s primary aim of achieving “Health for All” or Universal Health Care

What the proposed law aims to do:	Benefits to PLHIV and their families	Benefits to the community and the country
<ul style="list-style-type: none"> ▪ Secure employment and work opportunities for PLHIV 	<ul style="list-style-type: none"> ▪ PLHIV would retain their jobs and have equal work opportunities allowing them to maintain treatment while supporting their families ▪ Reduce financial difficulties individually and among families 	<ul style="list-style-type: none"> ▪ The proposed law will prohibit losing expertise, skills and workforce of PLHIV and their vital contribution to the country's economy
<ul style="list-style-type: none"> ▪ Protect the right to education of children affected by HIV 	<ul style="list-style-type: none"> ▪ Children affected by HIV will continue to get quality education which will in turn enhance their skills, life skills and increase employment opportunities in the future 	<ul style="list-style-type: none"> ▪ Reduce school drop-out ▪ Skilled labour force ▪ Reduction in poverty

What could the government do?

- ◆ Ensure PLHIV rights such as equal access to prevention, treatment and care services
- ◆ Reduce barriers caused by stigma and discrimination

What can you do as a policy maker?

As a policy maker you have a crucial role in the development, enactment and enforcement of the proposed HIV law and your guidance will be needed in the following:

1. Your technical insight in reviewing the proposed law
2. Your support in finalizing the proposed law
3. Your commitment in the enactment of the proposed law

Your support in the development and enactment of the proposed law will greatly contribute to Myanmar's goal to fast-track the HIV response and end the AIDS epidemic by 2030.