

ADJUSTMENT AND RE-DRAFT OF
NATIONAL AIDS COMMISSION
LEGISLATIVE REVIEW AND PROPOSAL

Written by

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INTRODUCTION

In 2002, the National AIDS Commission with support from the United Nations Development Program (UNDP) and the Global Fund Project embarked on a consultative process in view of proposing a draft National HIV/AIDS Policy document to be presented to Cabinet for consideration. This effort was guided by the Policy and Legislation subcommittee of the NAC led by Dolores Balderamos Garcia, Chairperson.

During the period 2002 – 2004 a review of HIV related legislation and a survey of perceptions were conducted. Country-wide consultations with major stakeholders were also completed so that the views of many concerned sectors could be included. This broad consultation process culminated in January 2005, with the Draft National Policy on HIV/AIDS, which was presented and approved by Cabinet in December 2005.

The Policy adopts a HUMAN RIGHTS AND RESPONSIBILITIES perspective, which incorporates the fundamental rights enshrined in the Belize Constitution and the commitments set out in the National Poverty Reduction Strategy and Action Plan as well as our international commitments in the Millennium Development Goals, (MDGS) and the United Nation's Special Session on HIV/AIDS, 2001 (UNGASS).

Since then the NAC has facilitated several national workshops to build support and consensus for the passage of the national policy. Over 200 persons and roughly 40 organizations including key businesses, religious and civil society sectors participated and pledged support for the policy. It is with this level of community support, that the policy was then presented and approved by Cabinet in December of 2005.

Now through the Project entitled "Strengthening of Belize's Multi-Sectoral Response to HIV/AIDS sponsored by the Global Fund to Fight AIDS, Tuberculosis and Malaria, the National AIDS Commission has initiated a full review of the legislation in Belize in an effort to identify legislative gaps in the Multi-sectoral Response and to develop draft legislation to address these gaps.

The specific goals of this consultancy are to:

- (a) Review all relevant laws for the purpose of recommending a comprehensive legal/legislative framework to create an enabling environment in which to combat HIV and AIDS.
- (b) Identify laws that respect and promote the rights of Persons living with HIV and AIDS (PWHA) and make recommendations appropriate to the Belizean context and the National HIV/AIDS Policy.

- (c) Identify gaps in existing legislation and provide recommendations as to how these can be addressed.
- (d) Provide recommendations on existing legislation which needs to be repealed.
- (e) Review disability legislation from other jurisdictions and identify areas which are relevant and adaptable to the Belizean context.
- (f) Compile existing knowledge and practices in the area of public health and recommend whether HIV/AIDS should be a notifiable public health disease.
- (g) Make recommendations on whether the willful transmission of HIV should remain a separate criminal offence and research and document ways in which transmission legislation has been enforced in other jurisdictions.
- (h) Recommend penalties for unethical behavior on the part of health care professionals.
- (i) Outline the social, ethical and economic impact of the recommended legislative changes.
- (j) Suggest the wording of draft provisions for major legislative amendments and new provisions.

EXECUTIVE SUMMARY

The project undertakes a comprehensive review of all legislation in Belize forming the basis of the work done by key HIV Stakeholders. Those key HIV stakeholders have been identified as:

1. The National Aids Commission
2. PWHA and advocacy groups for PWHA
3. The Ministry of Health and Health Care Professionals
4. The Ministry of Education
5. The Ministry of Labour
6. The Ministry of Defence
7. The Legal and Judicial Sector
8. The Social Security Board
9. Non-Governmental Organisations and other charitable and unregistered Social Services Organisations in the Community

The review investigated the specific provisions of relevant legislation as they affect the rights of PWHA and as they impact the work of the key HIV stakeholders. The findings appropriate to each stakeholder is summarised individually to provide an at a glance overview of the work to be done to facilitate the multi-sectoral response to HIV/AIDS. Recommendations are then grouped under the headings of Prevention, Treatment and Care to identify with the technical legal process adopted in the National Aids Policy and International Instruments providing guidance for the regulation of the work of HIV/AIDS stakeholders.

FINDINGS

The major findings were that:

1. With regards to the National Aids Commission, there was an appropriate legislative framework to allow it to fulfill its mandate and supervise the implementation of the National HIV/AIDS policy within the key stakeholder agencies.
2. With regards to the PWHA, legislation:
 - (a) exists to protect fundamental rights of all individuals, however, specific legislative protection against discrimination on the basis of HIV status is absent.
 - (b) did not adequately protect the fundamental right of PWHA of the right to work.
 - (c) did not adequately protect PWHA from stigma and discrimination and that there was existing legislation that reinforced such stigma by labeling HIV/AIDS as an infectious disease.
 - (d) did not guarantee PWHA the right to medical treatment.In addition, enough has not been done to educate PWHA on the legal process and the remedies available to them to seek redress where rights have been breached.

3. With regards to the Ministry of Health and other Health Care Professionals, legislation:
 - (a) did not protect PWHA from being denied treatment on the basis of their HIV status and that there are reports where such discrimination has taken place.
 - (b) did not impose a positive duty on health care professionals to protect the confidentiality of medical records and information obtained on PWHA during the course of treatment.
 - (c) imposing sanctions for professional breach of conduct of health care professionals though adequate to ensure best practice did not ensure that the victim who was injured as a result would be provided with appropriate medical care.
 - (d) did not require medical laboratories and clinics dealing with blood, tissue and organs to be registered and there is no standardization of care in these facilities.
 - (e) does not require persons operating hospices or nursing homes for the care of persons with AIDS and who provide medical treatment for such patients to be licensed or trained. This sector is largely unregulated and the persons involved unknown since it incorporates volunteer community based groups. This area is in need of comprehensive review and regulation, however, none of the governmental bodies contacted were willing to accept responsibility for the regulation of this sector.

It should also be stated that while the legislation itself does seem to have adequate safeguards, in practice, these safeguards are not always effective as there is need for continuous sensitization of

4. With regards to the Ministry of Education, legislation:
 - (a) did not provide for curriculum of primary and secondary schools to have age and policy appropriate sex education material, even though HIV/AIDS statistics for Belize indicate that the highest prevalence of infections is found in the children of high school age and that children of primary school age are engaged in early sexual activity which is often high risk activity.
5. With regards to the Ministry of Labour, legislation:
 - (a) did not impose a positive duty on employers to adopt and implement the National HIV/AIDS Workplace Policy and there are instances of employers who have received the training but have neglected to implement the policy.
workplaces

- (b) did not prohibit employers from requiring mandatory screening of employees for HIV/AIDS.
 - (c) did not protect employees from discrimination in the workplace on the basis of their HIV status. Evidence from PWHA is that the practice is prevalent as the Labour Act itself allows employers to terminate employment for medical grounds.
6. With regards to the Ministry of Defence, legislation:
- (a) governing the Prison Department though connected to a high risk population makes no provision for prevention, treatment and care of inmates or staff and does not prohibit mandatory testing.
 - (c) governing the Belize Defence Force does not prohibit mandatory testing.
 - (d) governing the Police Department does not prohibit mandatory testing.
7. With regards to the Legal and Judicial Sector, legislation:
- (a) does not provide for legal aid to PWHA to protect rights
 - (b) does not provide for proceedings involving sex crimes to be held in camera.
8. With regards to NGOs and charitable and unregistered social services organisations, legislation:
- (a) did not require hospices to be registered or for persons operating them to be trained
 - (b) legislation did not guarantee standardized care.
10. With regards to the Social Security Board, legislation:
- (a) providing for benefits for occupational diseases did not recognise HIV/AIDS as such as disease in respect of health care professionals.

MAJOR RECOMMENDATIONS

The major recommendations are summarised herein under the titles, prevention, treatment and care.

PREVENTION

Education and Awareness

1. Rules under the Education Act requiring primary school curriculum to have a values based sex education component.
2. Amendments to the Summary Jurisdiction (Offences) Act so that dissemination of material on the prevention and transmission of HIV and other STDs and STIs do not constitute an offence.

Voluntary Testing

1. The prohibition of mandatory testing except as required by Court order for legal proceedings

Notification of HIV Status

1. The prohibition of notification of status except pursuant to court order or in the interest of public safety.

Prevention of Willful Transmission

1. The expansion of the prohibition against willful transmission to include all STDs and STIs.

TREATMENT

Regulation of Laboratories

1. The creation of legislation requiring laboratories to be registered and other provisions pursuant thereto.

Code of Ethics for Health Care Professionals

1. The amendment of code of ethics to specifically provide for negligence or willful misconduct in relation to the provisions of services to PWHA.

Confidentiality

1. The creation of the Medical Records Act requiring the confidential treatment of medical records and information disclosing the status of any person and imposing sanctions for breach.

CARE

Protection of Fundamental Rights

1. The recommendation for advocacy on the protection of fundamental rights to persons PWHA and educating them on available redress will empower them to protect their rights.

Protection against Discrimination in the Workplace

1. The creation of anti-discriminatory legislation to protect PWHA from unfair dismissal

Regulation of Hospices

1. The amendment of the Nursing Home Act to regulate hospices and provide for matters connected thereto.



To better understand the aims and objectives of the terms of reference the consultant consulted available international HIV/AIDS guidelines on the preparation of local legislation in relation to HIV/AIDS.

Further, all reports on the status of HIV/AIDS in Belize have been consulted as well as the original draft of this work which formed the foundational reference for the compilation of this re-draft.

In addition, addition investigation of the existing laws, policy and procedure documents governing the work of key stakeholder agencies were reviewed.

Finally, one on one interviews as well as group discussions and e-mail exchanges were conducted with PWHA, as well key officers at stakeholder agencies to provide first hand evidentiary support for findings.

Regard was also had to public opinions expressed in local newspapers and on radio and television with regards to the experiences of persons in the community on the work of key stakeholder agencies.

It is hoped that the resulting analysis will demonstrate the comprehensiveness of the work done and will not only provide guidance on the way forward to strengthen the multi-sectoral response but also provide material from which to prepare the necessary Cabinet Papers to support the new legislation and legislative amendments recommended.

Chapter 2 LAWS PROTECTING RIGHTS OF PWHA

THE CONSTITUTION OF BELIZE

Section	Existing Provision	Findings and Analysis	Recommendations
2	Declares the Constitution to be the Supreme law	Allows for legal action to be brought to strike out as unconstitutional any law that contravenes the provisions of the constitution. There has not been any such court action with regards to HIV/AIDS.	This provision should remain as is.

Section	Existing Provision	Findings and Analysis	Recommendation
3 (cont'd)	Protects the individual's right to : <ol style="list-style-type: none"> 1. life, liberty, security of the person and the protection of the law; 2. freedom of conscience, expression and assembly; 3. protection of family life, personal privacy, other property and protection of his human dignity; 4. protection of property; 	I While the government has indicated that it will continue to provide free antiretrovirals, there is a need for a legislative right to appropriate and affordable medical care which would place and enforceable duty on the government to make medication for HIV and/or AIDS and other life threatening diseases available and affordable.	There is a need to promote legislation that gives individuals the right to medical treatment that is affordable and appropriate. If a constitutional amendment is not done, at the very least, the Medical Services and Institutions Act, Chapter 39 should be amended to include such a provision. ¹ A draft of such a provision is provided below.

¹ While the Government's free ARV treatment is available to persons who test positive for HIV, and free testing centers have been established in all districts of Belize, the ARV treatment itself is still concentrated in Belize City and Dangriga which means that persons who test positive in other areas do not have easy and immediate access to ARV. The imposition of the constitutional right or other legislative requirement for the availability of affordable and appropriate medical treatment would ensure that the Government budget addresses the need to equip all hospitals with the ability to provide ARV treatment.

Section	Existing Provision	Findings and Analysis	Recommendation
14	Protects the individual from arbitrary or unlawful interference with his privacy, family home, or correspondence nor to unlawful attacks on his honour and reputation and declares that the individual's private life shall be respected.	In as much as this section gives protection of personal privacy, it provides a constitutional basis for persons providing prevention, treatment and care services to be required to treat information obtained about patients and clients with confidentiality.	Legislation is needed to protect confidentiality by making it a criminal offence health care professionals to breach confidentiality. A draft of a new legislation to be called the Medical Records Act which will address this is provided herein.
15	Protects an individual from being denied the right to gain a living by work that he freely chooses or accepts.	This provision provides constitutional protection from employment policies designed to prevent persons infected with HIV or diagnosed with AIDS from continuing to work. The Ombudsman is also able to investigate cases involving public officers and make recommendations. Not enough is done to utilize the powers of the Ombudsman in this way.	The Labour Act should be amended to specifically prohibit discrimination from acquiring employment on the grounds of HIV and/or AIDS and to prevent employers from terminating employment on such grounds and to make it a mandatory requirement for all employers to implement the Government's HIV/AIDS Workplace Policy. A proposed draft is provided herein.

Section	Existing Provision	Findings and Analysis	Recommendation
105	Establishment of the Public Service Commission	The Government is the largest employer in Belize, the Public Service constitutes the Government labour force, as yet there are no specific provisions in the Constitution nor in the Public Services Regulations made under the made thereunder to protect the employment of workers within the public service from discriminatory practices because of their HIV and or AIDS status.	The Government’s HIV/AIDS workplace policy automatically applies to the Public Services but should be required to be implemented in law, the easiest to accomplish this is by amendment to the Labour Act. A draft of the proposed amendment is provided herein.

BELIZE NATIONAL AIDS COMMISSION ACT

Section	Existing Provision	Findings and Analysis	Recommendation
	Establishes the Belize National AIDS Commission	The NAC fulfills five main functions: Advocacy , Multi-Sectoral Coordination, Resource Mobilization, Policy and Legislation Development , Monitoring and Evaluation.	The legislative provisions and the mandate of the NAC is sufficient to allow it to effectively serve PWHA.

**Chapter
3
ANALYSIS OF EXISTING LAWS**

This analysis seeks to identify gaps in existing legislation and make specific recommendations as to how these can be addressed.

THE PUBLIC HEALTH ACT

Section	Existing Provision	Findings and Analysis	Recommendation
Section 211	Penalties and other provisions	The act contains a number of sections addressing various areas pertaining to public health. The act does not regulate laboratories and clinics which perform blood test or the Blood Bank which collects donations of blood for dissemination to hospitals and clinics. At present the Blood Bank operates on directives from the Ministry of Health and does not have a legal mandate to collect blood and its practices have no legal regulation.	Section 211 should be amended to include a new subsection to repeal S.I. 32 of 1987. In addition a new act is needed to be called the Medical Laboratories Act providing for: 1. The requirement for all medical laboratories to be licensed and providing for the qualification of the director of the director of the Laboratory.

Section	Existing Provision	Findings and Analysis	Recommendation
		<p>There is no legal requirement for the mandatory screening of blood or regulating the collection of tissue and organs.</p> <p>In addition, there are no provisions for keeping medical records confidential and for protecting the patient’s confidentiality. This is required since persons working in labs are not bound by an oath to their clients.</p> <p>S.I. 32/1987 passed under the Act renders HIV an infections disease and makes the persons infected susceptible to legislation requiring quarantine of persons with infectious diseases.</p>	<ol style="list-style-type: none"> 2. Providing for the reporting to the Central Medical Laboratory 3. Penalties for non-compliance 4. Protecting the confidentiality of client information 5. Penalties for breach of confidentiality 6. Providing for rules to be made to regulate the standard of services offered in medical labs 7. Providing for penalties for operating without a license. A draft is provided herein.

THE MEDICAL SERVICES AND INSTITUTIONS ACT

Section	Existing Provision	Findings and Analysis	Recommendation
14	Medical Officers are not mandated to provide staff with sensitization training for HIV and/or AIDS	At present medical officers perform mostly administrative duties as well direct and supervisory medical care to patients assigned to their hospital. However, there is no requirement for the medical officer to training health care professionals on the prevention, treatment and care of PWHA as it relates to their respective duties.	2. This section should be amended to require training of staff to be facilitated by the medical officer in charge.
23	The object of each hospital is to provide medical and surgical aid for sick persons	There is no provision for hospitals whether public or private to prevent them refusing to treat a sick person on the basis of impoverishment or to discriminate against persons with HIV/AIDS ² or to make treatment affordable or appropriate.	This section should be amended to make it an offence to refuse to treat a patient where the patient cannot pay and the relevant hospital is the only place that is accessible to the patient and to give patients the right to appeal the hospital's decision.

² Anecdotal evidence from PWHA indicate that they have gone to hospitals and told that they cannot get treatment there as there was no ARV treatment facility.

MEDICAL PRACTITIONERS REGISTRATION ACT

Section	Existing Provision	Findings and Analysis	Recommendation
23 (a)	<p>The Minister in consultation with the Medical Council has the right to make rules regulating the profession.</p>	<p>No rules have been made under the act to ensure that medical practitioners do not discriminate against patients on the basis of their HIV status</p> <p>In addition, the penalties that may be prescribed by the Medical Council for professional misconduct do not ensure that the victim will receive medical treatment for any injury resulting from the professional misconduct.</p>	<p>Rules should be made under the act to ensure that the Medical Council regulates minimum fees that can be charged and that medical care is affordable and appropriate treatment to all patients with HIV and/or AIDS and that no patient is denied treatment because of his HIV status.</p> <p>The medical practitioner found guilty of misconduct should be required to facilitate medical treatment for injury resulting from the misconduct. A draft provision is provided herein.</p>

NURSES AND MIDWIVES ACT

Section	Existing Provision	Findings and Analysis	Recommendation
5	<p>Rules may be made regarding the training of nurses and midwives and the conduct of nurses and midwives among other things.</p>	<p>In Belize, it is still the case that persons in rural ethnic communities deliver children by midwives instead of going to the hospitals. In some of these cases, the mother did not receive pre-natal care and so has not been tested for HIV.</p> <p>Nurses and midwives working in rural communities have no facilities to test for HIV and cannot provide ARV treatment to prevent mother to child transmission. However, nurses and midwives are influential persons in rural ethnic societies.</p>	<p>Rules should make provision for continuous sensitization training for nurses and midwives and in how to encourage rural mothers to receive prenatal care at clinics and hospitals and to educate mothers on the availability of free testing and treatment.</p> <p>Nurses and midwives in rural communities should be required to liaison with community based clinics and district hospitals and be mandated to refer clients for prenatal services.</p> <p>Disciplinary proceedings must ensure that victims of professional misconduct are provided with medical care. A draft provision is provided herein.</p>

THE LABOUR ACT

Section	Existing Provision	Findings and Analysis	Recommendation
6	Provides that information obtained by labour officers in the course of their duties must be kept confidential.	This confidentiality provision should be extended to protect confidentiality of medical information obtained by employers and management on employees.	An amendment to the section to expand the duty of confidentiality to employers and management.
14,16	Employers are required to keep records containing personal information on employees.	Employers have used this section to justify keeping on files medical results of tests and examinations including HIV testing done on employees. This is a direct infringement of the employee's right to privacy.	An amendment to the section to prohibit keeping of records on the HIV status of employees and also imposing a positive duty of confidentiality on employers and labour officers and increasing the fine under section 14 for breach of confidentiality is recommended. A draft is provided herein.
40	This section allows an employer to terminate an oral contract on giving the requisite notice.	Allowing employers to terminate employment solely on the basis of a notice has allowed employers to terminate persons on the basis of their HIV status.	The sections should be amended to add a proviso that no employment can be terminated by notice solely on the basis of the employees HIV status.

Section	Existing Provision	Findings and Analysis	Recommendation
53,63	These requires for a medical examination to be done prior to finalization of the employment contract	Employers have often interpreted this section to impose an obligation on an employee to undergo HIV testing prior to employment	These should be amended to indicate that a medical examination shall not include a HIV Test and that no employee shall be required to undergo mandatory HIV testing prior to or in the course of employment. In addition, the HIV status of an employee shall not be the basis for terminating employment of an otherwise qualified employee.
57	This section allows for termination of employment on the basis of the employees sickness or accident.	While the sections states that the employer may terminate if by sickness the employee is unable to fulfill his contract, it makes no provision as to how the inability of the worker is to be determined, leaving the employer to determine that an employee who is HIV positive cannot work and then choose to terminate.	The section should be amended to clearly prohibit termination on the grounds of HIV status but should include a proviso that the employer can request a medical board to examine the employee and make determination of capacity to work so that the Commissioner can approve the termination and ensure the worker gets the benefits to which he is entitled.

Section	Existing Provision	Findings and Analysis	Recommendation
58	This section allows termination for sickness in the case of workers from overseas.	The same discussion as under section 57 pertains	The same recommendation for section 57 is made here.
75	This section requires overseas workers to undergo medical examination	Employers have interpreted this to include HIV test	The same amendment provided above is recommended here.

THE REGISTRATION OF NURSING HOMES ACT

Section	Existing Provision	Findings and Analysis	Recommendation
3, 15	Defines nursing home as a place other than medical institution caring for persons with sickness, injury or infirmity, this should include hospices for PWHA. Minister may make rules.	No registration of hospices for PWHA act and no person acting as an inspector of such homes as is required by the act. No power to make rules prescribing the standard of care or protecting residents from abuse.	The act must be enforced and the Minister must be empowered to make rules prescribing the standard of care and protecting residents from abuse.

THE CRIMINAL CODE

Section	Existing Provision	Findings and Analysis	Recommendation
46.01, 73.01	Creates the criminal offence of recklessly or wilfully transmitting HIV and/or AIDS	The sections impose an obligation on persons who are aware that they are infected to take action to prevent the transmission of the disease by criminalizing deliberate transmission. However, as public education campaigns on the disease do not emphasise the legal obligation to prevent transmission, the deterrent effect the section was intended to have is not being achieved. More discussion is provided below on this issue under the section dealing with whether this should remain a separate criminal offence.	The sections should remain as it is important to protect the rights of victims for redress. The victim can choose not to press charges under the section but members of the public must have right to bring criminal action where they have suffered harm at the hands of another. The definition of reckless ensures that accidental infection is not criminalized. It is recommended that the section be amended to include all STDs and STIs. A draft is provided below.

Section	Existing Provision	Findings and Analysis	Recommendation
53	The section criminalizes unnatural crimes.	The section does not specifically state that sodomy is a crime but is used to criminalizes the act of sodomy. In practice, however, the section has only been invoked to bring charges against male adults who sexually assault boys or other men. The police indicate that they treat sexual intercourse between consenting adults, whether male or female as a matter of the privacy of such adults preferring not to get involved with that and will only bring charges where a minor who cannot consent was involved or where a person claims that they did not consent to such sexual relations.	There is very little popular support for repealing the section in as much as the Constitution itself affirms that Belize is founded on principles that acknowledge the supremacy of God and that freedoms should be based upon respect for moral and spiritual values and more than 80% of the population adheres to the belief that sodomy is in breach of moral and spiritual values. Great political opposition exists to such amendment. Efforts would be better spent training of police officers in the respect for the personal privacy of individuals so that this contentious issue does not erode the popular support needed to pass legislation preventing discrimination of PWHA on the basis of their HIV status.

Section	Existing Provision	Findings and Analysis	Recommendation
49, 50	Creates the crime of procuring a female to be used as a prostitute	The police at present do not charge persons for being prostitutes as that is not a recognizable crime, however, where procure others to be used as a prostitute that is charged, this section is most commonly activated in relation to persons who traffic women to be used as prostitutes and against persons who engage in the commercial sexual exploitation of minors. ³	The section in as much as it provides safeguards and criminal penalties for persons trafficking women for use in the sex trade and for persons engaged in the sexual exploitation of minors should remain on the books until the legislation and policy changes needed to implement the Trafficking laws and the CSEC laws are passed. At that stage a further review can be done to investigate whether these sections should be repealed.
51	Operating premises as a brothel	This section is also used to bring charges against persons operating premises where there is CSEC and where women are trafficked and used in the sex trade.	The recommendation above is repeated here.

³ The Prohibition of Trafficking in Persons Act, 2003 prohibits human trafficking and there is also draft legislation prohibiting the commercial sexual exploitation of minors.

THE SUMMARY JURISDICTION OFFENCES ACT

Section	Existing Provision	Findings and Analysis	Recommendation
4	Loitering as a prostitute	<p>The section is used to prosecute women who are found loitering as CSW.⁴</p> <p>In respect of HIV, persons who are CSW are considered a high risk group for HIV infection and at present, HIV service providers are reporting that the fear of criminal action if they are identified as prostitutes prevents many from utilizing free testing clinics and from receiving treatment for HIV which places other members of the population at risk for contracting the disease.⁵</p>	<p>Efforts should be made to coordinate with organisation promoting CSEC legislation and stakeholders in the working in the area of trafficking of persons as these are the most effective ways of addressing changes to the legislation as there is very little public support for the legal regulation of CSW because of the strong religious objections to the practice of prostitution. On the other hand, there is much public support for protecting victims of CSEC and victims of trafficking.</p>

⁴ San José, C.R., *The Commercial Sexual Exploitation of Children and Adolescents in Belize*, ILO, 2006. This study recommended the repeal of this section on the basis that the majority of persons arrested under the section were teenaged females later found to have been victims of CSEC and recommended that such females be immune from criminal prosecution as they are victims of a crime themselves.

⁵ In one recent publicized incident on *Channel Five News*, HIV service providers set up free testing clinics to test and provide treatment to CSW, the police became aware of the whereabouts of the CSW as a result and conducted a raid arresting the said CSW as soon as the free testing clinic was complete and the HIV service providers lost the opportunity to provide follow up services to these women.

Section	Existing Provision	Findings and Analysis	Recommendation
20, 21	Creates the offence of being in possession of indecent material	The police have indicated that they have never charged anyone under this section for being in possession of condoms or educational or instructional material on the prevention of transmission of HIV and only use the section in respect to pornography involving children. However, it is possible that a loose interpretation could lead to the restriction of material used in HIV education campaigns.	The proposed CSEC laws criminalise the possession of pornographic material involving children and there should be collaboration with CSEC stakeholders for the passage of the legislation. Until the passage of such legislation, the section cannot be repealed as it is the only section under which charges can be brought against a person possession pornographic material involving children. Nonetheless, the section should be amended to add a proviso protecting the possession of information on the prevention of transmission of STDs and STIs. A draft is provided herein.

Section	Existing Provision	Findings and Analysis	Recommendation
22, 23	Creates the offence of publishing or advertising indecent material	The police have indicated that this section is use in relation to the CSEC to charge persons publishing or advertising pornographic material involving children. It is possible though that a loose interpretation of the section can lead to the criminalizing of displaying advertisements and publishing pamphlets educating the public on the prevention of transmission of HIV.	The proposed CSEC law will specifically address this and after that legislation is passed, a review can be done to investigate whether the section should be repealed. At the very least the section should be amended to include a proviso protecting the dissemination of education material on STDs and STIs. A draft of such provision is provided herein.

LANDLORD AND TENANT ACT

Section	Existing Provision	Findings and Analysis	Recommendation
52	This section allows termination of a lease for failure to pay rent	There are no provisions prohibiting the discrimination against a PWHA or other family member.	The act should include an express prohibition against discrimination. A draft is provided herein.

EDUCATION ACT

Section	Existing Provision	Findings and Analysis	Recommendation
47	Minister may make rules to further the purposes of the act.	Under the Education Rules, schools are required to include in the curriculum taught to children life skills and to provide education on reproductive issues. This has been expanded by the Ministry of Education to require children in Secondary Schools be taught sex education. However, the national HIV/AIDS statistics indicate and the study on CSEC found that primary school age children were also engaged in early and unsafe sexual practices.	<p>HIV stakeholders must work with the MOE and school managers to prepare curriculums for primary schools that emphasise the moral and values based teachings in church operated schools but which provide adequate age appropriate sex education material to primary school children and which emphasise the importance of delaying sexual activity by providing more information to children on the risks associated with early sexual activity.</p> <p>HIV stakeholders must work with DHS and schools to ensure mandatory reporting requirements under The Families and Children Act are adhered to prevent CSEC.</p>

PRISION ACT

Section	Existing Provision	Findings and Analysis	Recommendation
		No provision for educational material on prevention of transmission of STDs and STIs though the prison population is considered a high risk group for the transmission of STDs and STIs.	Regulations must be made legally mandating requiring prevention campaigns to be done in prisons and to make provision for the treatment of persons in prisons who are infected since the Prison is now under private management. A draft is provided herein.

SOCIAL SECURITY ACT

Section	Existing Provision	Findings and Analysis	Recommendation
58	Lists the occupational diseases in respect of which benefit is payable if contracted on the job.	HCPs are exposed to STDs and STIs including HIV as an occupational disease in the course of their employment, however, they will not be able to make social security claims to receive benefits under the act to defray costs of treatment.	HCPs are engaged in work that exposes them to HIV as an occupational disease, the disease should be listed as one of the occupational diseases in the schedule to allow HCP to claim benefits under the Act. A draft is provided herein.

**Chapter
4****RECOMMENDATIONS ON REPEAL OF LAWS****The Statutory Instrument 32 of 1987**

- i. This Statutory Instrument rendered HIV an infectious disease and should be repealed for the following reasons:
 1. The act was passed at a time when much was not known in Belize about the mode of transmission of HIV. We now know that HIV/AIDS cannot be transmitted by casual bodily contact so HIV/AIDS does not fit within the parameters of other infectious diseases named in the act and the provisions for quarantining individuals and prohibition on working with food if infected do not apply to persons with HIV/AIDS, the act is , therefore redundant and should be repealed. The act is inconsistent with other legislation regulating health.
 2. According to section 2 of the Quarantine Act, infectious diseases are defined to exclude venereal diseases. Accordingly, the act, therefore, serves no useful purpose and should be repealed.
 3. The Act is no longer enforced in the prevention and treatment of persons with HIV/AIDS and is a dead act in need of repeal.
 4. The act serves to reinforce stigma and discrimination against persons with HIV/AIDS as person with a contagious infectious disease who should be shunned. This prevents the proper appreciation of HIV/AIDS as a communicable disease.
 5. The act contravenes current governmental policy. The National HIV and/or AIDS Policy and the National Workplace Policy both require prohibition of discrimination of individuals on the basis of their HIV status while this act reinforces that discrimination and stigma, the act should therefore be repealed.
 6. The act contravenes the international conventions and HIV/AIDS guidelines for legislation established internationally. The HIV/AIDS and Human Rights International Guidelines prohibit the stigmatization or discrimination of persons with HIV/AIDS in local legislation. The act as it is on breach of the accepted practice is antique and redundant and should be repealed.
 7. The act is inconsistent with other current legislation regulating HIV and/or AIDS internationally. As such the act should be repealed.

Chapter
5**INTERNATIONAL
REVIEW****COMPARATIVE****LEGAL****1. Bahamas - The Employment Act, 2001**

This Act prohibits an employer from discriminating against an employee on the basis of his HIV status. The act prohibits discrimination on the basis of race, creed, sex, marital status, political opinion, age or HIV/AIDS.

The act defines the acts of prohibited discrimination as refusal to offer employment, not affording access to opportunities for promotion or training or other benefits, dismissal of the employee, subjecting the employee to other detriment.

The act also expressly prohibits the pre-screening of an employee for HIV/AIDS.

The act gives important safeguards to PWHA from discrimination on the job. Firstly, by grouping with other areas of social disability, the personhood of a PWHA is protected, the emphasis is placed on the person and not the disease. This perspective ensures a rights based and holistic approach to the treatment of PWHA.

However, the act in only prohibiting pre-screening, leaves it open for employers to insist on HIV tests after employment is finalized. It would have been better for all mandatory testing to be prohibited.

2. Belarus – The Public Health Act, 1993 and amended in 2003

The 1993 Act required a person who tested positive to be notified in writing of the criminal laws prohibiting the infection of others and the criminal laws for refusing to submit to treatment.

The act treats HIV/AIDS as a public health disease, so the emphasis is on the disease and not the PWHA. Their right to privacy, their right to chose when and how they will be treated are all made subordinate to the state interest in restricting the spread of the disease.

The 2003 amendments made some headway in recognizing the personhood of the PWHA by protecting him and his family members from discrimination on their jobs, in schools and in being able to obtain accommodation.

3. South Africa

The law protecting the rights PWHA in South Africa stem from the provisions in the Constitution of South Africa, section 9 (3) provide for the protection of an individual from discrimination. In a recent case, in **A v X (Pty) Ltd**, an action was brought against an employer for unfair dismissal. In South Africa, the Labour laws do not make specific provision prohibiting discrimination in employment on the basis of a person's HIV status, however, the law prohibits unfair dismissal. In this case, the employee was taken by the manager of the organisation to a clinic after fainting due to exposure to chemical fumes. At the clinic the manager notices that the employee was wearing a shirt called HIV positive. When he returned to work, the manager asked the employee about the shirt that he was wearing accuse him of not disclosing his illness. The employee denied that he was HIV but the manager insisted that he undergo a test, saying that he had notices that the employee has HIV related symptoms. The employee stated he would leave and was threatened with dismissal if he left. He left, when he returned to work, he was requested to sign a resignation letter, which he refused. He left the job again. Attempts by an independent arbitrator to resolve the industrial dispute was unproductive with the manager stating that he did not want the employee to return to work as the employee was HIV positive. There was a lot of media attention on the case. When the matter came up before the Court, the court found that the applicant appeared confused in trial, the employer denied that he had insisted on a HIV test and the court found that the applicant had failed to prove unfair dismissal and had not pleaded constructive dismissal. His application was dismissed.

The case highlight the fact that has been underscored by the AIDS Law Project that though there is some legislation in existence which should protect the rights of PWHA in practice the interpretation of these laws by the courts did not always yield these results. Judges are seemingly unwilling find discrimination except in very clear cases thus requiring applicants to meet a higher standard of proof that the balance of probabilities normally requires.

This points to the deeper problems relating to stigma and discrimination in the society. In South Africa, the disclosure of one's HIV status could have violent and detrimental economic consequences with one at a risk of losing job, family, housing and in rare cases even one's life.

4. Canada

In Canada, great advances have been made in legislation to protecting PWHA from discrimination on their jobs, in obtaining accommodations and also extending non-discrimination provisions to homosexual communities.

However, a recent sweep of legislation across the provinces in 2003 declaring HIV to be a notifiable disease has created some concerns. The laws requires testing centers and clinics in all the provinces to report all positive tests to the Center for Infectious Disease Prevention and Control, (CIDPC). This has raised fears among HIV Advocacy Groups that persons may be discouraged from coming in to get testing, since the information required to be reported includes information on the following: demographic data, such as the person's age and gender; risks associated with the transmission of HIV; and laboratory data, such as the date of the person's first positive HIV.

The laws were enacted in all the provinces by the end of 2003. Since then initial reports have indicated an increase in the number of tests being done as the mandatory notification requirements makes allows for more comprehensive statistics to be gathered.

Another positive factor noted by advocacy groups is that most provinces allows the client to chose from one of three tests: nominal name based HIV testing where personal information is colleted for follow up etc., non-nominal, non-identifying testing where a code is used on a health card to represent the client and the client's identity is not known, anonymous testing – where the identity of the client is not known and no health record is created for the client. The client has the option of deciding whether he wants to be included in the database, however, if he tests positive, the fact of a positive test with details of his gender, age, ethnicity and HIV-related risk factors are recorded to be reported to the (CIDPC).

In Belize we have maintained the use of codes to identify clients. However, the small population and the informal nature of much of the social interaction makes it difficult to maintain confidentiality.

Chapter 6

ANALYSIS OF NOTIFICATION OF HIV/AIDS AS A PUBLIC HEALTH DISEASE

Under the law of Belize as currently enacted, there is no general legal requirement for HIV and/or AIDS to be a notifiable, public health disease.

Indeed, section 14 of the Constitution⁶ in as much as it protects a person from any arbitrary intrusion of his privacy would seem to render any legislation requiring the disclosure of the HIV status of a person, on the face of it, to be open to a constitutional challenge. However, s. 14 goes on to state that the right to privacy may be restricted where public interest or public safety requires it or to protect the right of another person.⁷ In addition, since s. 3 of the Constitution⁸ also protects the right to life, if the government does decide to require the mandatory disclosure of a person's HIV status such a legislation is likely to be upheld by the courts as required in the interest of public safety as the virus will lead to a life threatening illness.

Further, in the course of criminal proceedings a person who is accused of a sex crime may be requested to submit to a STD or STI test or HIV test, if he objects, the prosecutor may obtain an order of the court if there is reasonable grounds for the test to be taken compelling the accused to submit to such test.

So though there is no law requiring public notification, there can be notification to the Court under a Court Order. In practice, in Belize, all HIV positive tests are reported to the Central Medical Laboratory which is operated by the Ministry of Health⁹.

⁶ Chapter 4, Laws of Belize, 2003.

⁷ Ibid.

⁸ Ibid.

⁹ Chapter 175, Laws of Belize, 2003.

¹⁰ HIV/AIDS Prevention among Youth in Especially Difficult Circumstances in Belize, OPEC Fund, UNFPA, 2000–2006; Prevention of Mother to Child Transmission of HIV/AIDS, TCC Project, Belize–Bahamas 2000–2001, Ministry of Health, Belize, Ministry of Health, Bahamas; Public Service Code of Conduct on HIV/AIDS in the Workplace, Directorate of Public Service, Belize, 2001; Situational Analysis of HIV/AIDS in Belize, National AIDS Task Force, Belize, 1999; Socio-Economic Impact Study of HIV/AIDS, Belize, 1999–2000; Status and Trends, Analysis of the Caribbean HIV/AIDS Epidemic 1982–2002; HIV/AIDS Surveillance in Belize, National Health Information and Surveillance Unit, 4th quarter, 2006

⁹ Consultation with the Ministry of Health, January 2008.

There is no legal requirement for this and the MOH requests this information so that it can maintain data on the prevalence of HIV/AIDS. The Central Medical Laboratory indicates that its protocols ensure the confidentiality of clients as patients are given numbers, and only supervisors are given access to worksheets showing the correlation of patient numbers with patient information¹⁰.

In other most developed countries in North America and Europe the trend is to pass legislation making HIV/AIDS a notifiable public health disease. The justification for this is that it improves data collection so that the state can have an accurate picture of the prevalence of the disease. In addition, notification requirements can identify trends in the spread of the disease which can assist in making plans for Prevention, Treatment and Care.

In developing and underdeveloped countries, the trend is the opposite. In the Caribbean, this option has not been followed. In these countries, the concern is to protect the rights of individuals from discrimination as there are insufficient guidelines and resources to ensure that results will be confidential. In Belize for instance, the testing centers use a code to protect the identity of the client seeking the test, however, the population in the communities where testing is done is small and health workers often do not treat confidentiality as seriously as health workers in developed countries do since societal relationships are more informal in Belize. Therefore, there is a very real perception amongst PWHAs that the results of the tests are not confidential.

The issue of stigma and discrimination on the basis of HIV status must first be addressed and eliminated before the issue of notification of testing finds support amongst PWHAs even while they admit the advantages of better data collection in terms of improving treatment resources and programs.

The issue of notification is seen by many PWHAs as opening the door to other persons besides the Central Medical Laboratory having access to the results. PWHAs interviewed for this project indicate that there is no justification for a general right to notify spouses or partners or other family members of a person's status and at present that is not done, considerations may be different where a person's behaviour indicates that he is wilfully or recklessly transmitting the infection to others¹¹.

Many are concerned that notification will make their status public and affect marriages and property rights and cause discrimination in the workplace. Indeed, under the Married Women's Persons Protection Act¹², a wife is entitled to petition for judicial separation where the husband has contracted a venereal disease and has insisted on having sexual intercourse with her. In addition, it can provide evidence to establish adultery and obtain a divorce.

¹⁰ Consultation with Central Medical Laboratory, January 2008.

¹¹ Consultations with health care professionals in clinics, January 2008.

This kind of opposition creates a problem for HIV Stakeholders who want access to better records on the disease since the major studies done on the prevalence of HIV/AIDS in Belize¹³ have indicated that the fear of discrimination and stigma if a person's positive HIV status is made public is the number one reason that persons do not utilize free testing facilities to know their status.

On the other hand, public opinion is in favour of notification to health authorities and also in making the results public in criminal cases. Person of the general public interviewed indicate that public interest factors in having a person who is accused of rape, carnal knowledge, unnatural crime or other sexual assault to be mandatorily tested where the testing of the victim indicates that the victim is infected since conviction for these crimes require corroboration and a positive test can provide corroboration of the victim's evidence, outweighs the accused right to privacy.

Members of the medical sector consulted on this project overwhelmingly indicated that they believe that the public interest concerns embedded in the need for health authorities to have better data to provide better treatment and to know how the disease is spreading so that it can be contained far outweigh the accused's right to have his privacy protected.¹⁴

There are other concerns, however, that have arisen in recent years where employers are mandating employees to undergo HIV tests and requiring the labs that perform such tests to disclose the results of the test to the employers¹⁵. Such notification, if it is submitted is not justifiable by any public interest consideration. One PWHA has indicated that this practice has prevented him from being employed in a job for which he was qualified.¹⁶ Another PWHA indicated that when his HIV positive status was indicated to his employer during the course of routine testing at his job, he was terminated under the section in the Labour Act giving an employer the right to terminate for medical reasons though he was still in good health and able to perform his job.¹⁷

In the recently conducted sensitisation training to employers and employees in the workplace on the issues connected to HIV and/or AIDS in the workplace done by the Labour Department in tandem with the ILO, the idea that there should be no mandatory testing in HIV and/or AIDS workplace policies was met with objections by several prominent businesses as employees maintained that they had a right to know the status of their employees¹⁸. Many organisations have still not implemented workplace policies as a result of their objection to the no mandatory testing requirement¹⁹. One employer indicated that the law requires him to have in place insurance for his employees and the insurance company would not grant the insurance unless the employees submitted to

¹⁴ Consultations with the health care professionals, January 2008

¹⁵ Consultations with the Labour Department, January 2008.

¹⁶ Consultations with PWHA, January 2008.

¹⁷ Consultation with PWHA, January, 2008.

¹⁸ Consultation with employers and business owners, January 2008.

¹⁹ Consultation with the Labour Department, January 2008.

mandatory testing and that the insurance company would only insure those persons who were HIV negative so he had to know the status of his employees as he can not hire a person who is HIV positive as they would be uninsurable and he would be in breach of the law²⁰.

Representations must be made to insurance companies as it appears from observance of the prevailing practice that insurance companies are requiring HIV testing for all factory workers though such business are only seeking liability insurance or workmen's compensation plans²¹. While there may be justification for such testing if it is life insurance that is sought, it is unclear what the justification for the test is in the case of liability insurance. One insurance agent indicated that the HIV positive status of a person make him particularly susceptible to opportunistic infections which are present in the workplace and causing the insurer to take on an unacceptably high risk in insuring him²². On the face of it this appears to be no more than discrimination since the insurance company has the option of increasing the premium, though this may tend to make these plans less marketable.

There are no clear answers and it appears that the stakeholders are equally divided. In addition, trade unions contacted seemed to be in favour of requiring notification to employers and seemed to be more concerned with knowing the status of their fellow employees than protecting the employees' right to privacy²³. In fact, all of the eight trade unions in Belize have participated in the sensitization training of the Labour Department and at least in two known cases, the collective bargaining agreements came up for renegotiation after the training was done yet in neither of the two instances were there any discussions to include in the agreement a requirement to prohibit mandatory testing and reporting to employers and those two agreements are binding for the next 5 years and do not include any provisions to prohibit mandatory testing nor any provisions for the employer to provide care and support services for persons who are infected with HIV and/or AIDS who are employed with the organisations²⁴.

Though the Belize Defence Force has adopted a policy for educating recruits on prevention, treatment and care, the force still requires mandatory testing of all recruits and notification to the Belize Defence Force superiors and has indicated that this practice is necessary in the interest of public safety as the recruits must be in the best possible physical health to adequately perform their jobs²⁵. It is known, however, that in the past few years there have been a number of members of the Defence Force who have tested positive²⁶. To date the Defence Force maintains that those persons are still in active duty with the Force and treatment has been provided to them²⁷. The consultant was unable to substantiate these claims.

²⁰ Consultation with business owner operating a factory.

²¹ Consultations with employers and business owners.

²² Consultation with Insurance Agent, January 2008.

²³ Consultation with representatives from a local trade union, January 2008.

²⁴ Consultation with Labour Department, January 2008.

²⁵ Consultation with representatives from the Belize Defence Force, January 2008.

²⁶ Anecdotal evidence from members of the Belize Defence Force.

²⁷ Consultation with representatives from the Belize Defence Force, January 2008.

It is recommended that there be a law requiring notification to the Central Medical Laboratories of all positive tests done at clinics and labs. However, the client must be given the option of what kind of test they want to take and provisions must be made to keep client information confidential. In addition, names should not be required and the client's personal information collected should be restricted to his age, gender, ethnicity, and risky behaviour practices.

At present there are no clear guidelines for health care professionals and most are guided by their conscience as to whether to notify partners²⁸. There should be no legal requirement to inform partners but health care professionals can indicate during the counseling process that the spouse may be notified and treatment and counseling provided if the client so desires.

It is recommended that HIV/AIDS should not be otherwise disclosed except by Court Order.

²⁸ Ibid.

**Chapter
7****ANALYSIS OF OFFENCE OF WILFUL
TRANSMISSION OF HIV/AIDS**

According to the Criminal Code²⁹, section 46.01:

“(2) Every person who deliberately or recklessly transmits or spreads HIV/AIDS shall (a) on summary conviction, be liable to imprisonment for a term not exceeding five years; and (b) on conviction on indictment, be liable to imprisonment for a term not exceeding ten years.”

Further, section 73.01 of the Code³⁰ provides that:

“(1) A person deliberately or recklessly spreads HIV/AIDS if the person does any act specified in subsection (2) or (3).

(2) Subsection (1) applies where the person (a) knows that he is infected with HIV/AIDS; and (b) does a sexual act with another person which involves bodily contact and is capable of transmitting bodily fluids; and (c) does not inform the other person that he is infected with HIV/AIDS.

(3) Subsection (1) applies where the person (a) knows that he is infected with HIV/AIDS; and (b) donates blood or does anything not provided in subsection (2) which is likely to cause another person to be infected with HIV/AIDS.

(4) In this section “Sexual Act” means vaginal, oral, or anal intercourse.”

These sections have allowed for the willful transmission of HIV to be a separate criminal offence. At present there have not yet been any prosecuted cases under the section so the section’s effect in law remains untested³¹.

The section is intended to boost public awareness campaigns for behavioural change by ensuring that persons understand that they have a legal responsibility to ensure the non-transmission of the disease. Members of the legal sector consulted for this report indicated that the sections provide an important deterrent effect against persons who use the disease as a weapon, wilfully infecting others³². In addition, they also indicate that the sections protects rights of innocent persons and gives them redress before the law³³.

²⁹ Chapter 101, Laws of Belize.

³⁰ Ibid.

³¹ Investigation of cases filed and consultation with Police Prosecutors, January 2008.

³² Consultation with members of the legal and judicial sector, January 2008.

³³ Ibid.

HIV/AIDS stakeholders³⁴ on the other hand indicate that the criminalization of persons infected with HIV and/or AIDS reinforces discrimination against persons with the disease thereby undermining prevention and treatment campaigns. In addition, the law cannot have a true deterrent effect since the result of a conviction of the accused person is his incarceration which places him a high risk population with more opportunity to transmit the disease if that is his real intention. Further, they argue, the incarcerated accused will not get appropriate treatment while in prison³⁵. HIV stakeholders opine that efforts must be focused on getting everyone to adopt positive and responsible behavioural change practices³⁶.

Health care professionals indicate that there have been a few instances of persons who though informed of their HIV positive status have not adopted safe sexual practices though educated on these and have placed others at risk of contracting the disease³⁷. However, they indicate that it is up to the individual facility or clinic to determine whether they will notify the partners of those persons but they try to keep close contact with them to track them through the system and to continue to urge behavioural change³⁸. They also indicate that they have seen in a number of instances that there is an initial denial of the HIV positive status and persons do not make changes refusing to accept the result, however, over time with follow up counseling and because of the availability of free ARV treatment, most of these persons begin to adopt behavioural change as part of the treatment of the disease³⁹.

In as much as there is a great public interest in ensuring that the state protect the rights of victims and give them legal redress, the section should remain a separate criminal offence, however, in order to prevent stigmatization of persons with HIV and/or AIDS, my recommendation is that the section should be amended to criminalise any willful or reckless transmission of any STD and STI and not just focus on HIV and/or AIDS. Further, the trials of any sex crime should be required to be held in camera to protect the privacy of the victim⁴⁰. The convicted person should also be required where appropriate to compensate the victim in damages and to pay for medical treatment for the victim⁴¹. This is particularly important for other STDs and STIs as the victim would not have free medical treatment available to him or her.

³⁴ Consultation with HIV stakeholders providing voluntary care in community outreaches, January 2008

³⁵ Ibid

³⁶ Ibid

³⁷ Consultation with HCP, January 2008

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ The new legislation 'The Medical Records Act' provides that in proceedings where a person's HIV status will be disclosed, the proceedings should be done in camera. In addition, there are efforts underway by persons working in CSEC initiatives to protect the privacy of victims of sex crimes during the trial process. Efforts should be coordinated with these agencies.

⁴¹ The Prohibition of Trafficking in Persons Act, 2003 provides for restitution to be provided to the victim and for the perpetrator to pay the costs of medical treatment needed by the victim. The proposed CSEC legislation will also require perpetrators to provide the cost of medical care to victims. This recognition of the right of the victim to restitution in criminal law is a commendable new development that will also influence legislation drafted in regards to HIV/AIDS and other STDs and STIs.

TRANSMISSION LEGISLATION IN OTHER COUNTRIES

BELARUS – PUBLIC HEALTH ACT

The law imposes criminal liability for knowingly exposing another person to a risk of infection or for infecting another person.

In addition, criminal liability is incurred for refusing to undergo treatment.

The law is designed to treat HIV/AIDS a public health matter, therefore, the person who tests positive for HIV is required by law to be informed in writing by the health authority that he must comply with precautions promoting safe sex practices and he is also informed that he can incur criminal liability by exposing someone else to the disease or for refusing to undergo treatment.

Since the law treats HIV/AIDS as an infectious public disease the rights of the patient to confidentiality and his right to choose his own treatment is severely limited. The law is concerned more with protecting the public from the disease and less with protecting the rights of PWHA.

The law is strictly enforced since it is easy to trace persons with the disease as health authorities are required to keep proper records of persons who have tested positive and the treatment they have received. The patient really has no confidentiality and health authorities will report persons who refuse treatment for prosecution.

If effectiveness of the legislation is determined by the incidence of infection, then the law is relatively effective since national reports indicate that the levels of infection are low.

On the other hand, amendments made in 2003 to the law prohibit any discrimination of an HIV infected person in his employment, in being refused admittance to any school, and prohibits the legitimate interests and rights of families or persons associated with a PWHA from being prejudiced in regards to accommodation or other matters. This aspect of the legislation goes far to ensure that PWHA and their families are able to have a normal life.

8

UNETHICAL CONDUCT OF HEALTH CARE PROFESSIONALS

Several areas of concern arise in regards to the ethical conduct of health care professionals. These include:

1. Refusing to provide services to persons with the disease:
 - b. Though the Medical Services and Institutions Act⁴² indicates that the role of a hospital is to provide care for sick persons who are unable to otherwise receive care, it gives no positive entitlement to sick persons to receive such care, instead those persons must first be sent under the order of a public officer in a clinic or otherwise and the medical officer in charge of the hospital retains the discretion to determine whether they should receive care or not. There is no express prohibition against health care professionals refusing to provide persons infected with the disease with treatment.
 - c. Under the Medical Practitioner's Registration Act⁴³, there are sanctions for professional misconduct which include abandoning a patient with a life threatening illness without referral to another medical doctor or providing incorrect or in appropriate medical care. However, where there is such misconduct, the remedy for breach is a hearing before the Medical Council who may censure the medical doctor or recommend that his name be removed from the record. No criminal proceedings can be brought against the medical doctor without the written authorization of the Council or the Director of Public Prosecutions. The Medical Council also oversees the conduct of dentists⁴⁴ and opticians⁴⁵. Suffice it to say that no such proceedings have been brought.
 - d. Under the Nurses and Midwives Act⁴⁶, the Nurses and Midwives Council may make rules regulating the conduct of nurses. Breach of ethical rules requiring the provision of care to patients can result in the removal of the nurse of midwives name from the Register of Nurses and Midwives.
 - e. There have been reports of persons turning up to hospitals for treatment and being told that they could not receive treatment, especially in rural district hospitals⁴⁷. Doctors indicate that they have had to turn away such patients as they do not have the resources to provide AVR treatment⁴⁸. This issue is being addressed with the national roll out of NHI. Doctors

⁴² Chapter 39 of the Laws of Belize, 2003

⁴³ Chapter 318 of the Laws of Belize, 2003

⁴⁴ Dentist Act, Chapter 316, Laws of Belize

⁴⁵ Opticians Act, Chapter 322 of the Laws of Belize, 2003.

⁴⁶ Chapter 321 of the Laws of Belize, 2003.

⁴⁷ Consultation with PWHA, January 2008.

⁴⁸ Consultation with Medical Practitioners, January 2008

have indicated, however, that they are not comfortable treating patients with HIV/AIDS and HIV/AIDS related conditions as that is not their area of specialty⁴⁹. The two hospitals providing specialist care in the treatment of HIV/AIDS are the Belize District Hospital and the Southern Regional Hospitals in Dangriga. More must be done to provide specialist training to other doctors in other districts.

- f. With regards to private facilities, many of them indicate that they choose not to treat persons with HIV/AIDS and instead refer them to the Belize District Hospital where those persons are unable to pay for services⁵⁰. The Government has indicated that the NHI now being piloted in Belize City will be available countrywide this year to allow all persons to access free AVR treatment in their districts⁵¹. It remains to be seen whether the government will also impose a positive duty on health care professionals to provide service.
 - g. It is recommended that the Medical Council and the Nurses and Midwives Council be given the power to require the offending health care professional to pay the cost of the medical treatment that the patient will need or to impose fines in the case of extreme negligence and that the Council be required to advise the victim of their right to institute legal action to recover damages for the offending health care professional's wrongdoing.
 - h. Further the Medical Services and Institutions Act should be amended to impose a positive duty to provide medical services to all persons without any kind of discrimination due to the nature of their disease.
2. Breach of confidentiality:
- a. At present there are no laws specifically imposing sanctions for breach of confidentiality.
 - b. The only two areas of redress for breach of confidentiality is to the Medical Council or the Nurses and Midwives Council for disciplinary action to be taken⁵².
 - c. Since there is a right to privacy is protected under the constitution, there is also the option of bring an Administrative Action in the Supreme Court⁵³ to recover damages. However, the cost of securing legal counsel for such proceedings places this option outside the reach of most individuals.
 - d. The proposed new legislation to be called the Medical Records Act will protect the confidentiality of medical records by making it an offence to disclose information in medical records without the consent of the patient except as required by order of the court.

3. Abuse of the person with the disease in the course of providing care:

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Political Ad, PUP, Channel 5 TV, , January 2008.

⁵² Supra.

⁵³ Supreme Court of Judicature Rules, Chapter 91 of the Laws of Belize

- a. At present there are only informal hospice services being provided by NGOs and church organisations.⁵⁴ There is no legislation regulating the registration and operation of such facilities. There has been no studies done on the effectiveness of care or the standard of care provided in these facilities.
 - b. Anecdotal evidence from PWHA indicate and from interviewing some of these facilities indicate that they have received training in how to provide hospice care to PWHA⁵⁵. However, care needs to be standardize and there is a need for legislation requiring the licensing of the care providers and making provisions for protection of the persons receiving hospice or at home community care.
 - c. There is some confusion in the sector as to whether these persons and facilities should be regulated by the MOH as performing a medical service or by the MHD as performing social services. At present these facilities work closely with the MOH to ensure persons in their care receive ARV and other related treatment and also work with the MDH's, DHS department to provide counseling and support especially with regards to the care of children infected with HIV and/or AIDS⁵⁶.
 - d. There are some manuals that have been produced on how to care for PWHA, however, they do not adequately address the issue of the abuse of adult persons while receiving care⁵⁷. If the client is a child, the provisions of the Families and Children Act provide for mandatory reporting of suspected abuse and for legal action to be taken against the individual perpetuating the abuse. If the victim is an adult the criminal charges can be brought but there are no legal provisions for removal of the victim into emergency care or who will assume responsibility for emergency care. This is an area that requires in depth investigation and the creation of line authority within the MHD and the Ministry of Health before proper recommendations can be made.
 - e. The issue of the protection of the property of the individuals in hospice care and who makes decisions for them when they lose the requisite mental capacity to do so are also areas that need further investigation.
4. Providing wrong or inadequate care:
- a. Where the wrong or inadequate care was provided by a health care professional, redress is available as indicated above under provisions for misconduct in the relevant code of conduct or by way of legal action for damages.
 - b. However, where that wrong or inadequate care was provided by an

⁵⁴ Consultation with volunteer community outreach groups, January 2008.

⁵⁵ Consultation with PWHA, January 2008.

⁵⁶ Consultation with charitable organisations and volunteer community outreach groups, January 2008.

⁵⁷ Cornerstone Foundation has produced a number of well written manuals on caring for children, those on caring for adults do not address abuse of adults and redress available to them.

- unregulated person operating a hospice or where care is provided within a family setting, it is difficult to prosecute as evidence is often lost or unavailable.
- c. It is recommended that the area of hospice care be made the subject of a comprehensive care with a view to formalizing and standardizing care given out in the sector.
5. Discrimination in employment of health care professionals with HIV/AIDS:
- a. As stated above, the Constitution⁵⁸ prohibits discrimination of individuals, however, this prohibition does not extend to discrimination based on the HIV status of an individual.
 - b. Further, there are provisions in the Labour Act⁵⁹ that facilitate such discrimination.
 - c. It is recommended that specific legislation be enacted to prohibit the discrimination of persons in the workplace of individuals based on their HIV status. However, it may be necessary to include a proviso that health care professions with HIV/AIDS may have to be transferred to areas where their work does not expose them to bodily fluids or blood or cause other risks of infecting others.
6. Selling defective medical and equipment and disseminating medical propaganda:
- a. In Belize, there are no regulations pertaining to HIV/AIDS test kits or condoms, but it is submitted that the Sale of Goods Act provide adequate protection by mandating the implication of terms of contract of sale that the goods are of are or merchantable quality and fit for the purpose they were sold. The Consumer Protection Agency is a watchdog body that inspects shops and supermarkets to ensure that products sold are safe for human consumption and they also investigate claims of sale of unsafe items.
 - b. It is recommended that HIV Stakeholders, especially the MOH's health inspectors, should liaison with this body to request that their inspectors inspect condoms and medical or pharmaceutical items sold in shops and supermarkets. This body is very effective in ensure safe goods are sold since they can make recommendations for the withdrawal of shop licence. Regulations are needed under to prohibit the dissemination of medical propaganda and medications that have no scientific basis. A proposed draft for such a provision is given below under the proposed HIV/AIDS Prohibition of Discrimination Act, which renders it an offence to provide prescription, administration or application of medications or treatment for AIDS, or to disseminate medical propaganda without scientific base.

⁵⁸ Supra.

⁵⁹ Chapter 297 of the Laws of Belize, 2003.

Chapter
9**THE SOCIAL, ETHICAL AND ECONOMIC IMPACT OF
RECOMMENDED LEGISLATIVE CHANGES****PREVENTION**

- a. The recommendations requiring education and awareness to be incorporated into primary school curriculums may find some opposition in church run schools but if the curriculum is prepared from the perspective of empowering children especially girls to attach worth and value to their bodies and emphasises the risks associated with early sexual activity – STDs, STIs, uterine complications, high risk pregnancies, interruption of education and the problems of family dysfunction associated with single parenthood, it would be acceptable and would address concerns that the HIV stakeholders just want to give condoms to children. The deeper issues associated with early sexual activity will then be addressed.
- b. This will also create opportunities for a multi-sectoral response and the involvement of other social partners especially those involved in the protection of children from abuse and exploitation.
- c. In addition, recommendations to provide provisos to sections 20 and 22 of the Summary Offences Act⁶⁰ will ensure that no legal challenge can be brought to the educational and public awareness campaigns facilitated by the NAC.
- d. The recommendations protecting individuals from mandatory testing and promoting voluntary testing instead are important safeguards in protecting the fundamental right to privacy of individuals. This will also ensure that they support the NAC efforts to reduce stigma and discrimination of persons with PWHA and ensure that their status does not affect employment opportunities available to them.
- e. With regards to notification, the recommendation not to make HIV/AIDS a notifiable disease will also ensure that the rights of PWHA are protected and that they are not exposed to stigma and discrimination, yet the proviso for notification in the event of a refusal to agree to undertake behavioural change protects innocent persons from the capricious or reckless acts of persons who may be infected and preserves the Court's right to regulate legal proceedings. It will also ensure that best practices are followed

⁶⁰ Chapter 98 of the Laws of Belize, 2008

within the sector and ensure adequate ethical safeguards are adhered in protecting the privacy of clients, thereby encouraging more persons to get tested.

- f. The criminal provisions for making the offence of willful transmission applicable to all STDs and STIs gives greater protection to women who may not be able to negotiate safe sex practices with their partners. This provision must be strengthened by requirements for the trials of sex crimes to be held in camera.

TREATMENT

- a. The requirement for the regulation and of laboratories providing screening for blood, tissue and organs gives greater protection to members of the public and ensures that proper ethical requirements of due care and attention will be adhered to by health care professionals.
- b. Lobbying should be done to request that the funds raised from the regulation of these facilities being budgeted for HIV related expenses to ensure that the government continues to expand services available to PWHA.
- c. The requirement for the addition of sections in the code of ethics for health care professionals to impose more stringent sanctions for unethical behaviour in relation to treatment for HIV/AIDS ensures that health care professionals will provide services at a higher standard of care and ensures greater professionalism in the sector.
- d. In addition, the recommendation will ensure that all persons are able to access treatment and that their rights are protected while they are in care.
- e. The provisions addressing confidentiality will also bring greater professionalism to the sector which has often suffered from the informal nature of ordinary public relations in Belize.
- f. These recommendations will also ensure compliance with the National AIDS Policy.

CARE

- a. The recommendations for the protection of fundamental rights will ensure that socially PWHA are allowed to function in the same way as other members of society and are protected from discrimination on the basis of their status.
- b. The provisions of the HIV/AIDS Prohibition of Discrimination Act and the suggested amendments to the Labour Act will protect PWHA from unfair

dismissal and ensure that they remain contributing members of the labour force as long as they are able to function. This will address one of the major challenges facing Belize as a nation: the fact that majority of the residents are outside the labour force as the population is primarily a youthful population. In addition, these recommendations will reduce the cost to society of providing treatment and care for PWHA.

- c. The country will, therefore, continue to benefit from their talents and abilities, thereby, promoting economic development thereby ensuring that all persons enjoy an adequate standard of living.
- d. The regulation of hospices will ensure that ethical considerations and the increased professionalism that will come to the health care sector will also be evident in the operation of hospices as clients are protected from abuse and their privacy is protected and they are able to experienced standardize level of care.

10 DRAFTS OF LEGISLATIVE AMENDMENTS

NEW LEGISLATION:

1. **The Medical Laboratories Act**

Purpose

The proper operation of medical laboratories within the Belize is a matter of vital concern, since they provide essential health services by aiding medical practitioners in the diagnosis and treatment of disease. It is the purpose of this Act to develop, establish and enforce minimum standards for the licensure of medical laboratories and to provide for qualifications for the director of such laboratories. This Act shall be liberally construed to carry out these objectives and purposes. In general, this Act applies to all medical laboratories and directors of medical laboratories operating in Belize.

This Act may be cited as the "Medical Laboratory Act."

1. Subject to the limitations set forth in subsections 2 and 3, the following entities are exempted from the provisions of this Act under the following circumstances:

- (1) Medical laboratories operated by the Director of Health
- (2) Laboratory facilities and laboratory services operated in a hospital licensed by the Director of Health

2. Notwithstanding section 1, all medical laboratories and directors of medical laboratories shall be subject to all provisions of this Act, and rules promulgated under it, which govern the performance of maternal serum alpha-fetoprotein testing and HIV testing.

3. Notwithstanding section 1, any medical laboratory, regardless of location, that receives, forwards or analyzes specimens of material from the human body or referred cultures of specimens from the human body and reports the results to health care providers who use the data for purposes of patient care must report the same to the Central Medical Laboratory.

4. For the purposes of this Act, the following words and phrases have the meanings ascribed to them unless the context otherwise requires.

"Central Medical Laboratory" means the medical laboratory operated by the Director of Health.

"Department" means the Department of Health.

"Director of medical laboratory" means an individual who is responsible for

the professional, technical and scientific operation of a medical laboratory, including the reporting of the findings of medical laboratory tests. The director of a medical laboratory may not be merely nominal, but must be responsible for its operation to such extent as may be necessary to assure compliance with the objects and purposes of this Act.

“HIV” means the abbreviation for Human Immunodeficiency Virus, which is the virus that causes acquired immune deficiency syndrome in human, causing the body to fight disease causing agent.

"Medical laboratory" or "laboratory" means any institution, building or place which provides through its ownership or operation an organization which employs methods and instruments for the examination of blood, tissues, secretions and excretions of the human body or any function of the human body in order to diagnose disease, follow the course of disease, aid in the treatment of such disease or detect drugs or toxic substances or which produces information used as a basis for health advice or which purports to offer such examinations unless otherwise provided by law.

"Minister" means Minister of Health.

5. The department shall issue a medical laboratory license to any medical laboratory which has applied for said license on forms provided by the department and which is found to be in compliance with this Act.

6. No medical laboratory licensed under this Act shall send specimens to any laboratory within the Belize unless such laboratory is in compliance with this Act. When the specimen has been referred for examination to an out-of-country laboratory, the report shall bear or be accompanied by a clear statement that such findings were obtained in such other laboratory, which shall be identified.

7. Application must be made on a form prescribed by the department. Licenses must be issued to perform testing in one or more of the following categories or specialties: Histocompatibility; microbiology, including subcategories bacteriology, mycology, parasitology, virology; immunology or serology, including subcategories syphilis and nonsyphilis; chemistry, including subcategories routine, clinical microscopy or urinalysis and other, including toxicology; hematology, including coagulation; immunohematology, including subcategories blood group and Rh typing, Rh titers, cross matching, antibody detection and identification; pathology, including subcategories tissue, oral, diagnostic cytology; and radiobioassay. All applications must be accompanied by a license application fee. The application must be notarized and must contain the following information:

- (1.) Name and location. The name and location of the medical laboratory;
- (2.) Director and owners. The name of the director of the laboratory and the name of the owner or owners, if different;
- (3.) Services. A description of the services provided by such medical laboratory; and
- (4.) Other information. Such other information as the department may deem necessary or expedient in carrying out its powers and duties under this Act.

8. A license shall expire 3 years after the date of issuance unless renewed. Licenses may be renewed in the same manner and subject to the same conditions as the issuance of the original license and upon payment of a renewal application fee of \$_____ for the first category and \$___ for each additional category.
9. A license to conduct a medical laboratory when the owner is not the director shall be issued jointly to the owner and the director for the premises stated in the application, and they shall be severally and jointly responsible to the department for the maintenance and conduct thereof and for any violations of this Act and regulations pertaining thereto.
10. A separate license must be obtained for each location.
11. A license shall be valid only in the hands of the persons to whom it is issued and shall not be the subject of sale, assignment or transfer, voluntary or involuntary, nor shall a license be valid for any premises other than those for which issued.
12. A new license, for the unexpired length of time of the original license, may be secured, without the payment of any additional fee, for the new location, director or owner prior to the actual change, provided that the contemplated change is in compliance with this Act and regulations pertaining thereto.
13. This section is not to be construed as limiting the ownership of laboratories to persons who qualify under the provisions of this chapter as a director, but rather is intended to stipulate that a director as defined in section 4 is necessary in order for a laboratory to obtain a license.
14. Any person maintaining, conducting or operating a medical laboratory shall display, in a prominent place in the medical laboratory, the license issued to him by the department.
15. A medical laboratory shall not in any advertisement, announcement, letter, circular, poster, sign or any other manner include any statement expressly or by implication to the effect that it is approved or endorsed by the department.
16. Fees required under this Act may not be returned to the applicant or licensee under any circumstances.
17. All fees charged and collected by the department shall be deposited by it in the Treasury.
18. A licensee may obtain a duplicate copy of the license upon payment of \$2 to the department.
19. The department shall prescribe and publish rules and regulations for medical laboratories. These rules and regulations shall relate to:
 - (1.) The qualifications of directors and technical personnel of medical laboratories;
 - (2.) The location and construction of the laboratory, including plumbing, heating, lighting, ventilation, electrical services and similar conditions which shall insure the conduct and operation of the laboratory in a manner which will protect the public health;
 - (3.) All sanitary conditions within the laboratory and its surroundings,

including water supply, sewage, the handling of specimens and general hygiene which shall ensure the protection of the public health;

(4.) Equipment essential in the opinion of the department to proper conduct and operation of a medical laboratory; and

(5.) Standards of performance essential to the achievement of accurate, reliable results and the protection of public health, including standards for maternal serum alpha-fetoprotein testing, covering, at a minimum, volume of testing, population-based reference data, adjustment for variables affecting interpretation of results, confirmatory analyses, reports, review and follow-up and procedures to ensure that patients and physicians are provided adequate and reliable follow-up testing and counseling services and that the department is provided with data on test results and pregnancy outcomes.

20. The department shall adopt a schedule of fees by rulemaking to implement provisions of this chapter.

21. The department is authorized to inspect the premises and operations of all medical laboratories, subject to licensure or any provisions under this Act.

22. The department shall require the demonstration of proficiency in the performance of the tests offered by laboratories subject to licensure or the provisions of this paragraph through successful participation in a proficiency testing program acceptable to the department covering all categories or subcategories in which testing is offered. Evaluated copies of results shall be forwarded to the department.

23. Every medical laboratory shall possess one of the following qualifications:

(1.) Is a physician licensed to practice medicine in Belize, or who possesses qualifications acceptable to the department and equivalent to certification in pathology anatomy;

(2.) Is a physician licensed to practice medicine with special qualifications acceptable to the department; or

(3.) Has an earned doctorate degree in a chemical, physical or biological science from an accredited institution.

24. Except as otherwise provided, a medical laboratory shall examine specimens only at the request of a licensed physician or other person authorized by law to use the findings of laboratory examinations.

25. Notwithstanding this section, a medical laboratory may examine specimens without a physician referral for a limited number of laboratory services to be determined by rules adopted by the department. Those services include testing for:

A. Glucose for patients who have been previously diagnosed as having diabetes;

B. Pregnancy;

C. Colon cancer; and

D. Cholesterol.

26. This section does not require any medical laboratory to perform

laboratory services without a physician referral.

27. The result of a test shall be reported directly to the licensed physician or other person authorized by law who requested it. A report of results issued from a medical laboratory shall clearly identify that medical laboratory and the director.

28. No person other than a licensed physician or one authorized by law shall manipulate a person for the collection of specimens or process or submit or act as an agent for the transmittal of specimens, except that technical personnel of a licensed medical laboratory may collect blood or remove stomach contents or collect material for smears and cultures under the direction or upon the request of a physician or dentist.

29. Records involving laboratory services and copies of reports of laboratory tests shall be kept confidential and in a manner satisfactory to the department and shall be available at all times for inspection by its representative.

30. A license may be denied or revoked or the renewal of a license may be denied for any of the following reasons:

(1.) Violation of any of the provisions of this Act or the rules and regulations promulgated by the department hereunder;

(2.) Knowingly accepting an assignment for medical laboratory tests or specimens from and the rendering a report thereon to persons not authorized by law to submit such specimens;

(3.) A conviction of a felony or of any crime involving moral turpitude under the laws of any state or of the United States arising out of or in connection with the operation of a medical laboratory. The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction; or

(4.) Knowingly lending the use of the name of a licensed medical laboratory or its director to an unlicensed medical laboratory.

31. Before suspension or revocation of its license, if requested, a hearing must be held to show cause why a license should not be suspended or revoked.

32. It is unlawful for any person to:

(1.) Operate, maintain, direct or engage in the business of operating a medical laboratory, as defined, unless he has obtained a medical laboratory license from the department; or

(2.) Conduct, maintain or operate a medical laboratory unless such medical laboratory is under the direct and responsible supervision and direction of the person possessing those qualifications required by section ____.

33. The performance of any of the acts specified in section ____ shall constitute a misdemeanor punishable, upon conviction, by a fine of not less than \$__ nor more than \$____, or by imprisonment for not more than one year, or by both.

34. The operation or maintenance of a medical laboratory subject to licensure or any provisions of this Act, in violation of this Act, is declared a

nuisance inimical to the public health, welfare and safety. The department, in the name of the people of Belize through the Attorney General, may, in addition to other remedies provided, bring an action for an injunction to restrain such violation or to enjoin the future operation or maintenance of any such medical laboratory unless compliance with this Act has been obtained.

35. Any person aggrieved by a decision of the department may appeal to the Supreme Court of Belize.

36. The Minister in consultation with the Director of Health may make regulations to further the purpose of this Act.

2. THE MEDICAL RECORDS ACT

Purpose

The purpose of this Act is to

(1) establish strong and effective mechanisms to protect the privacy of persons with respect to personally identifiable health care information that is created or maintained as part of health treatment, diagnosis, enrollment, payment, testing, or research processes;

(2) promote the efficiency and security of the health information, infrastructure so that members of the health care community may more effectively exchange and transfer health information in a manner that will ensure the confidentiality of personally identifiable health information; and

(3) establish strong and effective remedies for violations of this Act.

1. This Act may be cited as the "Medical Records Act."

2. In this Act, the words shall bear the following meaning:-

`disclose' means to release, transfer, or otherwise divulge protected health information to any person other than the individual who is the subject of such information.

`disclose' means to release, transfer, or otherwise divulge protected health information to any person other than the individual who is the subject of such information.

`disclose' means to release, transfer, or otherwise divulge protected medical information to any person other than the individual who is the subject of such information.

`medical care' means—

(i) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, counseling, service, or procedure--

(I) with respect to the physical or mental condition of an individual; or

(II) affecting the structure or function of the human body or any

part of the human body; or

(ii) any sale or dispensing of a drug, device, equipment, or other item to an individual, or for the use of an individual, pursuant to a prescription.

`medical care provider' means a person who, with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of--

(i) a medical practitioner;

(ii) a licensed medical laboratory; or

(iii) an officer or employee of a person described in subparagraph (i) or (ii).

`individual representative' means any individual legally empowered to make decisions concerning the provision of health care to an individual (where the individual lacks the legal capacity to make such decisions) or the administrator or executor of the estate of a deceased individual.

`lawful inquiry' means a lawful investigation or official proceedings inquiring into a violation of, or failure to comply with, any law (criminal or civil) or any regulation, rule, or order issued pursuant to such law.

`person' includes the government of Belize; corporation; company; association; firm; partnership; society; estate; trust; joint venture; individual; individual representative; and any other legal entity.

`protected medical information' means any information, including demographic information collected from an individual, whether oral physically or recorded in any form or medium, that--

(i) is created or received by a medical information trustee; and

(ii) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and

(iii) identifies an individual; or

(iv) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.

`public health authority' means an authority or instrumentality of the government of Belize appointed to oversee the affairs of health in Belize

`writing' means writing in either a paper-based or computer-based form, including electronic signatures.

`medical information trustee' means--

(i) a medical care provider, health plan, health oversight agency, health researcher, public health authority, employer, insurer, school or university, or health information service insofar as it creates, receives, obtains, maintains, uses, or transmits protected health information;

(ii) any employee, agent, or contractor of a person covered under clause (i) insofar as such employee, agent, or contractor creates, receives, obtains, maintains, uses, or transmits protected health information.

“Minister” means Minister of Health

2. A medical information trustee shall establish and maintain appropriate administrative, technical, and physical safeguards to ensure the

confidentiality, security, accuracy, and integrity of protected health information created, received, obtained, maintained, used or transmitted by the trustee.

3. A medical information trustee shall not disclose protected medical information except as authorized under this Act.

4. Protected medical information shall not be used or disclosed to any person unless the use or disclosure is compatible with and related to the purposes for which the information was obtained.

5. Every disclosure of protected health information by a medical information trustee shall be limited to the minimum amount of information necessary to accomplish the purpose for which the information is disclosed.

6. Nothing in this title that permits a disclosure of medical information shall be construed to require such disclosure.

7. A medical information trustee may disclose protected health information for purposes of treatment or payment pursuant to an authorization executed by the individual who is the subject of the information (or a person acting for the individual) if each of the following requirements is met:

(1) The authorization is in writing or electronically authenticated, signed by the individual who is the subject of the information, and dated.

(2) Separate forms authorizing disclosures for treatment and payment processes are provided to the individual.

(3) The information to be disclosed is specified, or is described in the authorization.

(4) The trustee who is authorized to disclose such information is specifically identified, or is described in the authorization.

(5) The person to whom the information is to be disclosed is specifically identified, or is described in the authorization.

(6) The authorization contains an acknowledgement that the individual who is the subject of the information has the right to revoke or amend the authorization.

(7) The authorization contains an acknowledgment that the individual who is the subject of the information has read a statement of the disclosures that the person who receives the protected medical information intends to make.

(8) The authorization includes a proviso that the information will be disclosed solely for a purpose that is compatible with and related to the purposes for which the information was collected or received by the trustee.

(9) The authorization specifies a date or event at which the authorization expires.

(10) The authorization contains an acknowledgment that the individual may in writing revoke or amend an authorization described in section (5), at any time, except that with respect to disclosure of protected medical information to permit validation of expenditures for health care that has previously been authorized the authorization may not be

revoked

8. A medical information trustee may disclose protected health information when

- (1) complying with reportorial requirements in conjunction with the Central Medical Laboratory Services program as provided under the Medical Laboratories Act;
- (2) when informing other health care providers;
- (3) when responding to a subpoena duces tecum and subpoena ad testificandum issued by a Court with jurisdiction over a legal proceedings where the main issue is the HIV status of an individual: Provided, That the protected medical information shall be properly sealed by its lawful custodian after being double-checked for accuracy by the head of the office or department, hand delivered, and personally opened by the judge: Provided, further, That the judicial proceedings be held in exclusive session in camera.

9. A medical information trustee who discloses protected medical information pursuant to an authorization described in section 7 that has been revoked shall not be subject to any liability or penalty under this Act if the trustee had no actual or constructive notice of the revocation.

10. Any medical information trustee who has substantially and materially failed to comply with this Act shall be subject, in addition to any other penalties that may be prescribed by law, to--

- (1) a civil penalty of not more than \$10,000 for each such violation, but not to exceed \$50,000 in the aggregate for multiple violations; or
- (2) revocation of any professional license.

11 (1). An individual who is aggrieved by conduct in violation of this title may bring a civil action to recover--

- (a) such preliminary and equitable relief as the court determines to be appropriate;
 - (b) the greater of actual damages or liquidated damages of \$10,000; and
 - (c) punitive damages.
- (2) In the case of a civil action in which the individual has substantially prevailed, the court may assess against the respondent a reasonable attorney's fee and other litigation costs and expenses (including expert fees) reasonably incurred.

(3) No action may be commenced under this section more than 3 years after the date on which the violation was or should reasonably have been discovered.

12 (1). A person who knowingly—

- (a) obtains protected medical information relating to an individual in violation of this title; or
- (b) discloses protected medical information to another person in violation of this title, shall be fined not more than \$50,000, imprisoned not more than 1 year, or both.

(2) If the offense under this section is committed under false pretenses, be fined not more than \$50,000, imprisoned not more than 5 years, or both;

and

(3) If the offense under this section is committed with intent to sell, transfer, or use protected medical information for commercial advantage, personal gain, or malicious harm, be fined not more than \$150,000, imprisoned not more than 10 years, imprisoned not more than 3 years, or both.

13. The Minister may enact regulations in furtherance of the object and purpose of this Act.

3. THE HIV/AIDS PROHIBITION OF DISCRIMINATION ACT

Purpose

To Provide for HIV/AIDS prevention and control measures; the care, treatment and support for HIV infected people and regulations for the implementation of HIV/AIDS prevention and control measures.

1. This Act may be cited as the "HIV/AIDS Prohibition of Discrimination Act."

2 . In this Act, unless the context otherwise requires:

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

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

ARVS means ant-retroviral drugs.

Belize National AIDS Commission means the statutory body incorporated under Act No. 6 of 2004 referred to therein as Belize National AIDS Commission
Opportunistic infections mean infections that happen to a body due to the deficiency of the body's immunity caused by HIV infection.

Stigmatization against an HIV-infected person means an attitude of contempt or disrespect towards another person because of the awareness or suspicion that such person is infected with HIV or has close relationship with an HIV-infected or suspected HIV-infected person.

Discrimination against an HIV-infected person means an act of alienation, refusal, isolation, maltreatment, disgrace, prejudice or restriction of rights towards another person because of the awareness or suspicion that such person is infected with HIV or has close relationship with an HIV-infected or suspected HIV-infected person.

High-risk behaviors means the behaviors that easily cause HIV transmission such as, unsafe sex, needle/syringe sharing and other behaviors that easily cause HIV transmission.

Exposure to HIV means the exposure by direct contact with blood or biofluids

of an HIV-infected person and at risk of getting infected with HIV.
HIV/AIDS counseling means a process of dialogue and provision of necessary knowledge and information about HIV/AIDS prevention and control between the counselor and the counseled, in order to help the counseled make his/her own decisions and resolve problems related to the prevention of HIV/AIDS transmission and the care for and treatment of HIV-infected persons.
HIV testing means the application of professional techniques to determine the status of HIV infection in samples of blood or bio-fluid from a human body.

HIV positive means the result of a test of blood or bio-fluid samples of a human body determined as HIV-infected.

Harm reduction intervention measures in the prevention of HIV transmission include propaganda, mobilization and encouragement of the use of condoms, clean syringes and needles, treatment of addiction to opium related substances with substitute substances and other harm reduction intervention measures in order to facilitate safe behaviors to prevent HIV transmission.

2. HIV-infected people shall have the following rights:

- (1) To live in integration with the community and society, free from discrimination and stigmatization;
- (2) To have the right to healthcare free from discrimination and restriction at any public or private hospital or medical institution of their choice;
- (3) To have general education, learn jobs and work;
- (4) To have their HIV/AIDS status kept confidential;
- (5) To refuse medical examination and treatment of full-blown AIDS.
- (6) Other rights as provided for by this Law and other related laws.

3. HIV-infected people shall have the following obligations:

- (1) To apply measures to prevent the transmission of HIV to other people;
- (2) To practice their sexuality with responsibility for others.
- (3) To disclose his/her HIV status and health condition to his/her spouse or sexual partner at the earliest opportune time;
- (4) To observe instructions on treatment with ARVs;
- (5) Other obligations as provided by this Law and other related laws.

4. The following are expressly prohibited:

- (1) Purposefully transmitting or causing the transmission of HIV to another person pursuant to section ___ of the Criminal Code.
- (2) Stigmatizing and discriminating against HIV-infected people.
- (3) Abandoning of their HIV-infected minor children or wards by parents or guardians.
- (4) Making public the name, address and images of an HIV-infected person or disclosing information on a person's HIV infection or status to another without consent of that person, except for the case specified herein.
- (5) Falsely reporting HIV infection of a person not infected with HIV.
- (6) Forcing HIV testing
- (7) Conducting transfusion of HIV-contaminated blood or blood products,

transplantation of HIV-contaminated tissues or body parts into another person.

(8) The discrimination or negation of medical attention of persons infected with HIV/AIDS or suspected to be HIV positive or having AIDS.

(9) Refusing to bury or to cremate the corpses of dead persons for HIV/AIDS-related reasons.

(10) Providing prescription, administration or application of medications or treatment for HIV/AIDS, or to disseminate medical propaganda that have not been approved by the Department of Health.

(11) Other acts prohibited by this Act.

5 (1) An individual who is aggrieved by conduct in violation of sections 4 (2), (3) (4), (5), (6), (7), (8) (9), (10) may bring a civil action to recover—
(a) such preliminary and equitable relief as the court determines to be appropriate;

(b) the greater of actual damages or liquidated damages of \$10,000; and
(c) punitive damages.

(2) In the case of a civil action in which the individual has substantially prevailed, the court may assess against the defendant a reasonable attorney's fee and other litigation costs and expenses (including expert fees) reasonably incurred.

(3) No action may be commenced under this section more than 3 years after the date on which the violation was or should reasonably have been discovered.

6. A person who knowingly contravenes section 4 is guilty of an offence and shall be fined not more than \$15,000, imprisoned not more than 1 year, or both.

7.(1) All medical practitioners, nurse, health worker and personnel, whether public or private, shall deliver HIV/AIDS education and information, including the correction common misconceptions about this disease.

(2) All hospital, health centers, medical laboratories or other medical institutions, whether public or private, that conduct HIV testing are obligated to provide counseling to any person who request HIV testing.

(3) A person who knowingly contravenes this section is guilty of an offence and shall be fined not more than \$15,000, imprisoned not more than 1 year, or both PROVIDED that when the person who is a legal person is found guilty of an offence under this section it shall be fined not more than \$15,000.00.

8(1) All government and private employers shall provide workers, managers, and supervisors, including members of the defence force and the police force, with standardized basic information and instruction on HIV/AIDS, which shall include topics on confidentiality in the workplace and attitude free of discrimination and stigmatization towards infected employees and workers.

8(2) A person who knowingly contravenes this section is guilty of an offence and shall be fined not more than \$15,000.

9(1) The dissemination or publication of any ads or information promoting

the awareness or spread of HIV/AIDS or the non-discrimination of persons infected with HIV/AIDS pursuant to sections 7 and 8 of this Act shall be submitted firstly to the Belize National AIDS Commission, who shall in consultation with the Department of Health, review and approve the same within 30 days after submission.

9(2) The Belize National AIDS Commission shall review any proposed ads or information promoting the awareness or spread of HIV/AIDS or the nondiscrimination of persons infected with HIV/AIDS submitted under the above section for accuracy, appropriateness, and effectiveness.

9(3) Where any ad or information is disapproved by the National AIDS Commission, the person submitting the same for approval may appeal the decision of the National AIDS Commission to the Minister of Health.

10(1) All research, investigation, studies on HIV/AIDS shall be submitted firstly to the Belize National AIDS Commission, who shall in consultation with the Department of Health, review and approve the same within 30 days after submission.

10(2) The Belize National AIDS Commission shall review any proposed any proposed research, investigation, or studies submitted under the above section for accuracy, appropriateness, and effectiveness.

10(3) Where any proposed research, investigation, or studies is disapproved by the Belize National AIDS Commission, the person submitting the same for approval may appeal the decision of the of the Belize National AIDS Commission to the Minister of Health.

11(1) The public or private educational institutions shall not deny access to education or training of person infected with HIV or the children of persons infected with HIV.

11(2) Any individual who contravenes this provision is guilty of an offence and shall be fined in the case of the first offence up to one month's salary and in the case of any repeat offence up to three months salary.

11(3) Any legal person who contravenes this provision shall be guilty of an offence and shall be fined and in the case of the first offence up to \$5,000.00 and for every repeat offence up to \$15,000.00.

12. Notwithstanding the provision in any other Act, the importation and sale of medical supplies and medical equipment specific to the treatment and prevention of HIV/AIDS shall be exempt from import duties, income tax, business tax.

13. The Minister may enact regulations in furtherance of the objects and purposes of this Act.

AMENDMENTS

A. The Public Health (Amendment) Act

1. Section 211 is hereby amended by the addition of the following subsection

- (3) Statutory Instrument number 32 of 1987 passed under this Act is hereby repealed.

B. Medical Services and Institutions (Amendment) Act

1. Section 14 is hereby amended as follows:

(1) The current section shall become subsection (1) and subsection (2) and (3) is added thus

(2) The medical officer shall provide sensitization training for staff and facilitate training of interns and doctors in rotation, nurses and other medical personnel on medical issues connected to the prevention, treatment and care of HIV and/or AIDS.

(3) The medical officer shall ensure that all staff members are trained in the legal requirements and the Ministries' policies in protecting the confidentiality of medical records and information of persons receiving prevention, treatment or care services for HIV and/or AIDS.

2. Section 23 is amended as follows:

(1) The current section shall become subsection (1) and the words "or other medical facility" shall be added after the word hospital

(2) subsection (2) and (3) shall be added thus:

(2) No hospital or other medical facility shall refuse to treat a patient suffering from any life threatening illness solely on the basis that the patient is not insured or on the basis that the patient cannot pay the cost of such treatment.

(3) Where a person is refused medical treatment at any hospital or other medical facility, the person aggrieved may appeal to the Minister, who may give such directive as is appropriate including a directive for the hospital or medical facility to provide the treatment requested or the Minister may refer the patient to another hospital or medical facility.

C. Medical Practitioners Registration (Amendment) Act

1. section 15 (1) is amended by the addition of the following subsection (d) and (e):

(d) The Council shall be authorised to require the medical practitioner found guilty of professional misconduct to make restitution to the victim to cover the cost of any medical treatment necessary to alleviate any injury so caused.

(e) Any restitution so paid may be deducted from any damages recovered by the victim in an action for damages.

D. Dentist (Amendment) Act

1. Section 12 shall be amended by adding the following subsections (3) and (4):
 - (3) Where the Council makes a finding of infamous or disgraceful conduct under subsection (1), the Council may in addition to other penalties prescribed require the Dentist so adjudged to make restitution to the victim to cover the cost of any medical treatment necessary to alleviate any injury caused by such conduct.
 - (4) Any restitution paid under subsection (3) shall be deducted from any damages recovered by the victim in an action for damages.

E. Nurses and Midwives Regulations (Amendment) Act

1. Regulation 24 (12) is repealed and the following provision substituted therefor:
 - (12) If the Council find the charges against the Respondent to be proved either in whole or in part, it may remove her name from the Register altogether or for such period as it may think fit and the Council may require the Respondent to pay the cost of any medical treatment necessary to alleviate any injury caused to any person as a result of the Respondent's misconduct.

F. Labour Act (Amendment) Act

1. Section 6 (3) is hereby amended by the addition of the words " and such person shall keep confidential all information, however, acquired by him indicating the HIV/AIDS status of any worker".
2. Section 6 (5) (b) is amended by the addition of the following words " and is liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six months, or to both.
3. Section 14 is amended by subsection (b) becoming subsection (c) and the following included as subsection (b):
 - (b) shall not reveal, even after leaving office, any information as to the HIV/AIDS status of any worker or employer which may come to him in the course of his duties; and
4. Section 14 (2) is amended by striking out the words "five hundred" and substituting therefor the words "two thousand".
5. Section 16 is amended by the addition of the following PROVISIO to subsection (1):

PROVIDED that no records so required to be kept shall contain any information as to the HIV/AIDS status of any worker.

6. Section 30 is amended by the addition of the following subsection (2) and (3):
 - (2) No contract of service shall contain any term requiring any worker to undergo and mandatory HIV/AIDS testing as a prerequisite for acquiring or maintaining employment.
 - (3) Any term in any contract of service that contravenes subsection (1) or subsection (2) shall be void and of no effect.
7. Section 40 is amended by the addition of the following subsection (3):
 - (3) No worker may be terminated by notice or otherwise on the basis of his HIV/AIDS status and no employer shall in any way discriminate against any worker on the basis of his HIV/AIDS status.
8. Section 53 is amended by the addition of the following subsection (5) and (6):
 - (5) No medical examination required under this section shall include any mandatory HIV/AIDS test and no worker shall be required to undergo any mandatory HIV/AIDS test.
 - (6) Any term in any contract of service that contravenes subsection (5) shall be void and of no effect.
9. Section 57 is amended by the addition of the following PROVISIO to subsection (3):

PROVIDED that no contract shall be terminated on the grounds of the HIV/AIDS status of any worker. PROVIDED further that where the employer maintains that the worker who has HIV/AIDS is unable to fulfill a contract by reason of the advance nature of his disability caused by his disease the matter shall be determined on application by a medical board appointed by the Minister under section 187.
10. Section 58 is amended by the addition of the following PROVISIO to subsection (1) (c):

PROVIDED that no contract shall be terminated on the grounds of the HIV/AIDS status of any worker. PROVIDED further that where the employer maintains that the worker who has HIV/AIDS is unable to fulfill a contract by reason of the advance nature of his disability caused by his disease the matter shall be determined on application by a medical board appointed by the Minister under section 187.
11. Section 63 is amended by the addition of the following PROVISIO to subsection (1) (b):

PROVIDED that the medical examination so required shall include any mandatory HIV/AIDS test and no worker shall be required to undergo any mandatory HIV/AIDS test.

12. Section 75 is amended by the addition of the following subsection (3):
 - (3) No medical examination required under this section shall include any mandatory HIV/AIDS test and no worker shall be required to undergo any mandatory HIV/AIDS test.
13. Section 76 is amended by the addition of the addition of the following PROVISIO to subsection (1) (b):

PROVIDED that the medical examination so required shall include any mandatory HIV/AIDS test and no worker shall be required to undergo any mandatory HIV/AIDS test.

G. Criminal Code (Amendment) Act

1. Section 46.01 is hereby repealed and the following section substituted therefor:

Section 46:01 (2) Every person who deliberately or recklessly transmits or spreads of a disease which causes or can cause serious bodily harm shall

- (a) on summary conviction, be liable to imprisonment for a term not exceeding five years; and
- (b) on conviction on indictment, be liable to imprisonment for a term not exceeding ten years.

2. Section 73.01 is hereby repealed and the following section substituted therefor:

Section 73:01

- (1) A person deliberately or recklessly spreads a disease if the person does any act specified in subsection (2) or (3).
- (2) Subsection (1) applies where the person
 - (a) knows that he is infected with a disease; and
 - (b) does a act with or on another person which involves bodily contact and is capable of transmitting bodily fluids; and
 - (c) does not inform the other person that he is infected with a disease.
- (3) Subsection (1) applies where the person
 - (a) knows that he is infected with a disease; and
 - (b) donates blood or does anything not provided in subsection (2) which is likely to cause another person to be infected with a disease.

H. Summary Jurisdiction Act (Amendment) Act

1. Section 20 is amended by the addition of the following subsection:
 - (2) No action taken by any educational, religious, charitable or governmental organisation to educate the public on the modes of transmission and to provide information on the prevention, treatment and care of any sexually transmitted

disease or sexually transmitted infection shall constitute an offence under this section.

2. Section 22 is amended by the addition of the following subsection:
(2) No action taken by any educational, religious, charitable or governmental organisation to educate the public on the modes of transmission and to provide information on the prevention, treatment and care of any sexually transmitted disease or sexually transmitted infection shall constitute an offence under this section.
3. Section 23 is amended by the addition of the following subsection:
(2) No action taken by any educational, religious, charitable or governmental organisation to educate the public on the modes of transmission and to provide information on the prevention, treatment and care of any sexually transmitted disease or sexually transmitted infection shall constitute an offence under this section.

I. Nursing Home (Amendment) Act

1. Section 15 is hereby amended by the addition of the following subsections:
 - (c) the qualification of the director a nursing home;
 - (d) the standard and quality of care to be given to residents in any nursing home;
 - (e) the protection from abuse or neglect of residents in any nursing home;
 - (d) penalties for the breach of any rules so prescribed;
 - (f) any matter necessary to give effect to this law.

J. Landlord and Tenant (Amendment) Act

1. Section 52 is amended by the addition of the following new section:
52A. (1) No landlord shall refuse any person any tenancy or the right to renew any tenancy and no tenancy shall be terminated on the basis of the HIV status of any tenant or the HIV status of any member of the tenant's household.

(2) No landlord shall discriminate against any tenant by charging unfair rents or imposing onerous conditions in any lease or tenancy or otherwise on the basis of the tenant's HIV status or the status of any member of the tenant's household.

K. Education (Amendment) Act

1. No school or educational institution shall refuse admittance to any person on the basis of their HIV status or on the basis of the HIV status of any member of their family.

L. Education Rules (Amendment) Act

2. Regulation 32 is amended by the addition of the following regulations:

(7) Managing Authorities, utilizing official information provided by the Department of Health and after consultation with parents shall integrate in the national curriculum for primary and secondary education institutions instruction on the causes, modes of transmission and ways of preventing HIV/AIDS and other sexually transmitted diseases in subjects taught in public and private schools at intermediate grades, secondary and tertiary levels, including non-formal and indigenous learning systems PROVIDED that it shall not be used as an excuse to propagate birth control or the sale or distribution of birth control devices PROVIDED further that it does not utilize sexually explicit materials PROVIDED finally that if the integration of HIV/AIDS is not appropriate or feasible, the Managing Authority shall design its own curriculum modules on HIV prevention and control to be approved by the Department of Education.

(8) Managing Authorities shall require all teachers and instructors of said HIV/AIDS course shall be required to undergo a seminar or training on HIV/AIDS prevention and control to be supervised by the Department, in coordination with the Department of Health, thereby they are allowed to teach on the subject.

M. Prison Act

1. Section 24A is added as follows:
It shall be the duty of the managing authority of any prison or detention facility to provide education and training to all staff and inmates as to the modes of transmission, and information on prevention, treatment and care of HIV/AIDS.
2. Section 24 B is added as follows:
It shall be the duty of the managing authority to provide adequate and appropriate medical treatment to inmates who are PWHA.
3. section 24 C is added as follows:
No staff member or inmate shall be required to submit to any mandatory HIV/AIDS screening save as required by order of the Court.

N. Landlord and Tenant (Amendment) Act

1. No landlord shall refuse to let, lease or sublet premises to any person on the basis of their HIV status or the HIV status of any family member or associate.

O. Social Security (Benefit) Regulations (Amendment Act)

1. The list of prescribed diseases under Regulation 58 is amended as follows:

Column (1)	Column (2)
20. HIV/AIDS	Any occupation involving close and frequent contact with source or sources of HIV/AIDS by reason of employment - (a) in the medical treatment or nursing of a person or persons suffering from HIV/AIDS or in a service ancillary to such treatment or nursing; (b) as a research worker engaged in research in connection with HIV/AIDS; (c) as a laboratory worker, pathologist or post-mortem worker, where the occupation involves working with material which is a source of HIV/AIDS, or in any occupation ancillary to such employment.

CONCLUSION

Significant advancement has been made by the Belize National AIDS Commission to advocate for the rights of PWHA, coordinate a multi-sectoral response and develop policies to strengthen the multi-sectoral response. The Belize National AIDS Policy,

itself, a tremendous achievement has placed Belize as a forerunner in the Caribbean and demonstrates the commitment to continue the fight against HIV/AIDS.

After many years of fighting the battle alone, the NAC is beginning to see some fruit from its labour. Recently, the Labour Department seized the initiative with assistance from the ILO to coordinate training of over 4,000 workers and employers countrywide on issues relating to HIV/AIDS in the workplace. These efforts resulted in the creation and implementation of a National HIV/AIDS Workplace Policy. Further, the Belize Chamber of Commerce, made up of employers, themselves taken their stance in the fight by forming a Businessmen's Coalition to address issues of HIV/AIDS and have pledged their support to the initiatives of the AIDS Commission and the Labour Department, this advance has not yet been duplicated elsewhere in the Caribbean.

The Labour Department, in collaboration with the ILO, has recently conducted its own study on legal and policy initiatives with a view to recommend legislation to prohibit discrimination in the workplace against PWHA and to make provisions for treatment and care of workers with HIV/AIDS⁶¹.

These initiatives now need to be complemented by overall legislative changes to develop legal framework in which the rights of PWHA are adequately protected in all sectors of society and which will sustain the work of key stakeholders.

The legislative amendments proposed will strengthen the Belize's national response by creating a more enabling environment for the work of the NAC and a society in which PWHA are treated and respected for who they are, ordinary citizens. Further, the initiative of comprehensive legislative review creates the opportunity to strengthen the multi-sectoral response by allowing each stakeholder to identify their individual role in the fight against HIV/AIDS and recognizing what needs to be done to complement their work while allowing them to see the bigger picture: the necessity for a coordinated fight.

It is hoped that this report will allow these two objectives to be achieved and that Belize will continue to lead the region in this regard. The climate for change is right, the time is right and the tools for the fight are available to us. Let us seize the opportunity.

LIST OF ACRONYMS

AIDS – Acquired Immuno-Deficiency Syndrome

⁶¹ Shaw, D., 2007 "Study on the Legal and Policy Initiatives to Strengthen the National Response to HIV/AIDS in the World of Work, 2007". ILO

ARV - Anti-Retroviral Treatment

CSEC – Commercial Sexual Exploitation of Children

CSW – Commercial Sexual Worker

HCP - Health Care Professional

HIV - Human Immuno-Deficiency Virus

MOE – Ministry of Education

MOH – Ministry of Health

PWHA - People Living with HIV/AIDS

STD - Sexually Transmitted Disease

STI – Sexually Transmitted Infections

UNDP – United Nations Development Program

UNGASS – United Nations General Assembly Special Session

VCT – Voluntary Counseling and Testing

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