

# LAW ON THE PREVENTION AND CONTROL OF HIV/AIDS

OR

## STATUTE OF THE PREVENTION AND CONTROL OF HIV/AIDS

**(LOW STANDARD FRAMEWORK)**

**(EXPERT PROPOSAL: A DRAFT)**

### Preface

*The following is a draft of expert proposal for Law (or Statute) on the Prevention and Control of HIV/AIDS in China. We are asking for comments from all of those who care about this issue under the framework of rule of law and good governance, and looking forward to any recommendations for revision.*

*We began this proposal in 2001 right after accomplishment of Legal Assessments: Prevention and Control of HIV/AIDS, a report for UNDP and the health administration departments of China. As for lack of support, we are still in the process of drafting.*

*We would like to emphasize two points as below.*

*Firstly, this expert proposal differs from other existed or drafted versions, either national or local, in the perspective, structure and the setting of rules of law.*

*To be concretely:*

*1. The existed statutes usually have their basis on HIV/AIDS epidemic prevention, while this expert proposal is based on the idea that "government shall take positive responsibility to ensure citizen's right to health". We believe citizen's right to health and other human rights are the foremost issues. Under the framework of rule of law and good governance, co-considering and in accordance with the legislation requirements on safeguard of human right, social consequence may caused by infectious disease, health administration and regulation of medical technique, we aim to build an institutional structure on HIV/AIDS prevention and control characterized as "the integration of Government leading, multi sectional cooperation and the public participation".*

*2. The existed statutes usually consist of General Provisions; Surveillance, Test and Report; Prevention and Control; Treatment and Care; Safeguard Measures; Legal Responsibility; and*

Supplementary Articles. Different from the usual structure, this expert proposal sets Safeguard of Right as the second chapter right after General Provisions in order to emphasize citizen's rights. It followed by four chapters focusing on institutional arrangement with the core idea of "multi sectional cooperation". They are [the Obligation and Organizational Structure of Government](#), [the Obligation of Ad Hoc Organizations](#), [the Obligation of Physicians and hospitals and the Obligation of Blood Procurement Organs and Blood Product Companies](#).

The seventh chapter of [Medical Research and Professional Education](#) points out that the government should positively sponsor and facilitate research on medicine, vaccine and treatment, and conduct professional education.

The eighth chapter is Prevention, which focuses on legislation on six aspects as propaganda and education, prevention from transmissions originate from blood and happen in hospital, safe sex, interrupting mother-child transmission, vocational exposure, behavioral intervention of drug dependence.

Then is the ninth chapter of Test and Treatment, providing institutional safeguard for citizen's right relates to test and treatment.

After that is the chapter of [Epidemic Situation Report and the Analysis of Epidemic Trend and its Impact](#). As you can see, we separate surveillance and test, and put test ahead of surveillance considering that test relates to citizen's human rights while surveillance is the responsibility of the government. This is the same logic with moving citizen's right ahead of the government in the revision of the constitution.

The following chapter is "Care and Help". It consists of care and help from the community, self-help of HIV infected persons, help to the family of the dead AIDs patients, commonweal undertaking and international cooperation.

The next is Administrative Redress, Judicial Redress and Legal Aid, emphasizing that the legal system has the role of final judgment and maintenance of social justice. Then is the chapter of Audit and Social Appraisal, which aims to safeguard the legal and efficient use of the resources, including financial resource. The proposal ends with supplementary articles.

3. Most of the existed legislations have the problems such as the logic structures are lack of integrity, the provisions are ambiguous, no time limitation for the implementation, no safeguard measures for the procedures, no constrains. Different from these, this expert proposal tries its best to include detailed punishment measures coincide with "have to do" or "prohibit doing" regulations. It especially emphasizes the principle included in [Outlines for Promoting Law-based Administration](#) announced by State Council of China in 2004, which states that the officials and government organs should exercise power accountable, use power under supervision, be punished for violating the laws, and compensate those whose rights have been compromised.

Secondly, this expert proposal covers as many as possible social factors relate to HIV/AIDs issue and is looking forward to any recommendations for revision. It will be great helpful if you can put your comments and recommendations right after related articles, or sections, or chapters accordingly. If your opinion is about the whole draft, please write in the end. We hope to pass on these opinions, as many as we can, as diversity as we can, to our legislators.

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or

Statute of the Prevention and control of HIV/AIDS

(Low standard framework)

(Expert Proposal: a draft)

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## *Chapter1 General Provisions*

### *Article 1Basis for the legislation*

*This statute is made with a view to preventing the HIV/AIDS spread, ensuring the individual's health and public health, upgrading the living quality and creating a harmonious society.*

*Comments and recommendations:*

### *Article 2Applicable spectrum*

*(Only apply to local statute)*

*Comments and recommendations:*

### *Article 3Guidelines*

*The HIV/AIDS prevention and cure shall be pursuant to the guideline of "the integration*

*of Government leading, multi sectional cooperation and the public participation”.*

*Government shall play a role in the mission establishment, strategic planning, fund providing and coordination for uniting all the related sections to fight against HIV/AIDS.*

*Comments and recommendations:*

#### *Article 4 Principles*

*(1) to treat everyone equally and eliminate discriminations and indignity brought by HIV/AIDS;*

*(2) government shall take positive responsibility regarding citizen’s right to health;*

*(3) the civil rights of citizens are protected by law;*

*(4) citizens are entitled to participate in public affairs and supervise the government’s actions;*

*(5) all rights violated can be redressed by justice.*

*Comments and recommendations:*

#### *Article 5 The obligation of the People’s Congress and the Political Consultative Conference*

*The People’s Congress or its standing committee of all levels shall hear at least once a year the report by government on the epidemic situation of HIV/AIDS in the region, measures taken by government and the relevant financial disbursement and audit. The People’s Congress and its standing committee of all levels can organize thematic investigation to related issues when necessary.*

*Political Consultative Conference at every local level can take appropriate measures when necessary.*

*Comments and recommendations:*

*Article 6 Governmental advocacy to medical research*

*Government shall advocate the research and development on HIV/AIDS vaccines and other medicine, and on methods to prevent and cure HIV/AIDS. Government shall, in order to facilitate the above Research & Development, establish programmatic fund through bidding.*

*Those who make prominent achievement in the foregoing Research & Development will be awarded by government.*

*Comments and recommendations:*

*Article 7 Governmental support to the cultivation of professionals*

*Government shall support the cultivation of professionals specializing in the HIV/AIDS prevention and cure as well as the training of physicians and nurses, and shall establish programmatic fund to support the medical schools and colleges to educate master students and doctorate students specializing in HIV/AIDS prevention and cure as well as the training of physicians and nurses.*

*Comments and recommendations:*

*Article 8 Governmental backup to public commitment*

*Government shall support the public commitment to the prevention and cure of HIV/AIDS and the care and help campaign to the HIV/AIDS infected and patients. Government shall also establish programmatic fund through bidding to support these public commitment.*

*Comments and recommendations:*

*Article 9 Nexus between government and media*

*Government shall advocate the positive and conscientious reports by media on knowledge of HIV/AIDS prevention and cure, the situation of the epidemics of HIV/AIDS and other related issues.*

*Governments shall seriously make investigations and verifications to HIV/AIDS problems uncovered by the media and deal with them in a timely manner in accordance with related law provision.*

*Comments and recommendations:*

*Article 10 Social responsibilities of enterprises*

*Government shall advocate the social obligation of and the positive commitment of enterprises concerning HIV/AIDS prevention and cure.*

*Comments and recommendations:*

*Comments and recommendations for Chapter one:*

## *Chapter 2 The Safeguard of Rights*

*Article 11 The acquisition of knowledge of prevention and the progressive realization of general right to health*

*Every citizen is entitled the right to know the information of HIV/AIDS prevention and cure, the right to access free consultancy and free first-screening. Government shall establish specialized HIV/AIDS consulting and first-screening organs at the county level and above to provide information of HIV/AIDS prevention and cure, issue reports on epidemic situation of HIV/AIDS, and publicize its affairs and actions concerning HIV/AIDS prevention and cure and to ensure the progressive realization of the general right to health of citizens.*

*Government shall, in the interest of ensuring the foregoing rights of citizens, make*

*reforms in health care system, enhance the investment and expand the coverage of medicare system and establish health care organs in communities.*

*Comments and recommendations:*

*Article 12 The autonomy of citizens in receiving propaganda, consultancy, test and therapy*

*In the prevention and cure of HIV/AIDS, every citizen shall be entitled the right to autonomously determine whether to accept propaganda, consultancy, test and therapy, and the right to be exempted from arbitrary intervention of others to personal freedom due to HIV/AIDS, with an exception of legal provision.*

*Civil servants and staff working over epidemic prevention organs that violate the foregoing rights of citizens shall be punished by administrative warning and bear the corresponding civil liability; should a state administration play a role in the action, it shall bear the liability of national compensation.*

*Physicians and other medical staff acting against law and the ethical and professional principle of "Informed Consent" shall be punished by chastisement ranging from 6 month suspending from practicing duty or revocation of professional license, and take the corresponding civil or criminal liability; hospitals accountable for the action shall take the civil liability as well.*

*Comments and recommendations:*

*Article 13 The safeguard of the Right to Privacy*

*Each citizen has the right to be free from intervention to his/her privacy and private life in the prevention and cure of HIV/AIDS.*

*Civil servants and staff working over epidemic prevention organs that intentionally uncover the information of individual's HIV/AIDS shall be degraded and be stollenbosched, while bearing the civil liability; those who negligently leak out information of individual's HIV/AIDS shall be punished with a 6-month suspending from practicing duty and while bearing the corresponding civil liability.*

*Comments and recommendations:*

*Article 14 The safeguard of the right to personal freedom*

*Any individual or organizations shall not, for the sake of HIV/AIDS, circumscribe any citizen's personal freedom protected by law.*

*Civil servants and staff working over epidemic prevention organs that violate individual's private body freedom shall be degraded and be stollenbosched, while bearing the corresponding civil liability or criminal liability; should state organs play a role in the action, it shall bear the liability of national compensation.*

*Physicians and other medical staff acting against law circumscribing the personal freedom of any citizens for the sake of HIV/AIDS shall be punished with revocation of professional license and the corresponding civil or criminal liability; hospitals accountable for the action shall take the civil liability as well.*

*Comments and recommendations:*

*Article 15 HIV/AIDS infector is entitled the same rights as non-infected people*

*HIV/AIDS infector is entitled the same rights as non-infectors including the right to study and work, right to marriage, right to give birth to a child and right to be free from being intervened to private life.*

*Schools and universities shall have no right to refuse enrollment of a citizen with HIV/AIDS-positive or compel him/her to leave school. President of a public school refusing the enrollment of a citizen with HIV/AIDS-positive or compel him/her to leave school shall be deprived of the title and position of president. Private schools refuse enrollment of a citizen with HIV/AIDS-positive or compel him/her to leave school shall be deprived of the qualification of running the school.*

*Enterprises and other employers have no right to refuse to hire a citizen with HIV/AIDS-positive or compel him/her to leave. Enterprises and other employers refusing to hire a citizen with HIV/AIDS-positive or compelling him/her to leave shall be intervened by the administration of labor and social security of the government. Arbitral tribunals or courts shall adjudicate the illegality this action if a citizen raises labor arbitration or brings an accusation against the enterprise or other employer refusing to hire him/her or compelling him/her to leave for HIV/AIDS-positive. Enterprises and other employers shall make compensations to the victim if the refusing or compelling has caused damage to him/her.*

*Marriage registration administration shall not refuse to make registrations for citizens with HIV/AIDS-positive. Marriage registration administration may persuade the HIV/AIDS-positive who want to get married to do HIV/AIDS test but the test is by no means enforceable. Citizens asking for a marriage while aware of his/her HIV/AIDS virus shall report his/her disease to the would-be wife/husband. Citizens hiding the truth of his/her HIV/AIDS-positive to his would-be wife/husband shall bear the corresponding civil or criminal liability.*

*Population and family planning policy administrations, epidemic prevention organs and any other individuals or organizations have no right to forbid citizens to give birth to a child for the sake of his/her HIV/AIDS-positive. Population and family planning policy administrations, epidemic prevention organs and hospitals may advice the female citizens to take HIV/AIDS test after pregnancy but this is by no means enforceable to any pregnant women. A hospital, once knowing the pregnant woman is HIV/AIDS-positive who is willing to give birth, shall provide free consultancy and free maternal-infant transmitting interdiction operation together with the epidemic prevention organs.*

*Any individual or organization shall bear the corresponding legal obligation for violating the right to study and work, right to marriage, right to give birth to child and right to be free from being intervened to private life of HIV/AIDS-positives.*

*HIV/AIDS-positives shall respect and not violate the same rights of other people when exercising their own rights recognized and protected by law and shall bear the corresponding legal effect for their own act.*

*Comments and recommendations:*

#### *Article 16The supply of antiviral medicine*

*HIV/AIDS-positives can have free access to anti-HIV/AIDS virus medicine provided by the state, or get reimbursement from the medicare system if he/she is insured by the medicare system, once taking anti HIV/AIDS virus medicine is medically confirmed.*

*The standard for free access to anti-HIV/AIDS virus medicine shall be made by the state.*

*The cost for anti-HIV/AIDS virus medicine provision by the state shall be disbursed by the financial budget through government's bidding purchase.*

*Comments and recommendations:*

*Article 17 Other therapies available beyond antivirus medicine for HIV/AIDS infectors*

*Other therapy costs including anti-opportunistic infection for HIV/AIDS-positives shall be adequately derated. The standard for it shall be made by the state. The costs will be covered by government's financial budget.*

*Comments and recommendations:*

*Article 18 General therapy obligation of hospitals*

*HIV/AIDS-positives shall be entitled the right to get treatment for their diseases other than HIV/AIDS in comprehensive hospitals, stomatology hospitals and other hospitals beyond the hospitals specializing in HIV/AIDS therapy. Physicians and other medical staff refusing to treat the HIV/AIDS-positives in comprehensive hospitals, stomatology hospitals and other hospitals beyond the specialized HIV/AIDS hospitals shall be administratively punished by the health administration with a 6-month suspension of duty practice.*

*Comments and recommendations:*

*Article 19 The rights of HIV/AIDS infectors and the family of patients*

*HIV/AIDS-positives and his/her family members shall not be discriminated for the infection and their relations with the patient. Any organization and community shall not treat the HIV/AIDS patient and his/her family differently.*

*Comments and recommendations:*

*Article 20 The safeguard of rights of susceptible group (I)*

*Physicians charged with the test for HIV/AIDS patients or the consultancy or therapy are obliged to inform the patient of his/her duty to tell the truth to the family and whom they closely contact, advice them to take the HIV/AIDS test when necessary and help them understand the possible liability they might have to bear for not telling the truth to their family or whom they closely contact.*

*Physicians shall make paper record when informing the patient. The record shall bear the signature of the patient. Should the patient refuse to sign his/her name, other physicians on the spot shall sign their names and this shall be reported to the local health or epidemic prevention administration.*

*HIV/AIDS-positives who did not tell his/her family or whom they closely contact and thereby cause the HIV/AIDS infections to the family or whom they closely contact shall bear the corresponding civil or criminal liability.*

*when the infected family or whom the HIV/AIDS patient closely contacted ask for consultancy service or related guidance by physicians, the HIV/AIDS prevention and care organs in the region or county shall provide free service and guidance and keep secret for the infected family or whom the HIV/AIDS patient closely contacted.*

*Comments and recommendations:*

*Article 21 The safeguard of rights of susceptible group (II professionally susceptible group)*

*Government is obliged to provide self-protection training for physicians, nurses, beauticians, hairdressers and police who might be possibly contact HIV/AIDS-positives due to their work requirement.*

*Government shall establish rules for the HIV/AIDS prevention of vocational exposure and establish medicine deposit spots for the prevention of vocational exposure. Should a county-level region be too far-flung or traffic facilities are too poor, the medicine deposit spots shall be established in a region that can be reached within 12 hours.*

*Government's health administration shall ensure the timely therapy for those professionally exposed to HIV/AIDS virus so as to avoid the infection caused by the exposure once this occurs.*

*Government shall establish special medicare facilities for those who may possibly be infected by HIV/AIDS due to professional exposure. Once the infection occurs, the victim shall be granted RMB 200, 000 of national compensation while maintaining the original salary and health care provided by the state. The living and study expenses for those who are raised by the victim shall be covered by the governmental financial budget.*

*Comments and recommendations:*

*Article 22 The safeguard of rights of susceptible group (III behaviorally susceptible group )*

*Governments shall support any commitment for helping the self-protection of HIV/AIDS susceptible group by health care or epidemic prevention organs and other social organizations.*

*Governments shall support the self-education and self-aid activities by HIV/AIDS susceptible groups through charitable and commonwealth organizations.*

*Comments and recommendations:*

*Article 23 The safeguard of rights of floating population*

*Governments are obliged to provide service pertaining to HIV/AIDS prevention and cure for the population and their family floating from rural areas to cities.*

*Information on how to prevent and cure HIV/AIDS shall be added in the free training of both making living outward by the outflow government and the in-city training by the inflow government.*

*Information on how to prevent and cure HIV/AIDS shall also be added in various toll vocational or technical trainings. Government's health administrations shall provide uniform reference manual for these kinds of trainings.*

*Government plays a role in supporting the self-education and self-aid by people and their family floating to urban area for making a living.*

*Government also plays a role in supporting the cooperation and activities co-hosted by people and their family floating to urban area for making a living and self-governing organizations of citizens living in urban area.*

*Comments and recommendations:*

#### *Article 24 Special protection to children and youth*

*Government shall take special measures to protect the children and youth from being infected by HIV/AIDS. Government shall ensure the educational program taken by schools and the media targeting children and youth which are applicable to their age concerning HIV/AIDS prevention and cure. The content of these education programs shall include: the respect, care and non-discrimination to others, the comprehension to the complex of society and the strengthening of the capability facing frustration, choice to freedom and the understanding of their own choice, the cultivation of the capacity to make choice by themselves, as well as the methodology of self protection.*

*Government shall supervise the education program by schools and media and others and thereby try to reduce the negative impact on children and youth.*

*Governments shall provide special aids for the children and youth who is unluckily infected by HIV/AIDS, which include minimizing the possibility of unable to be educated, of being discriminated for HIV/AIDS infection, and providing sufficient medical treatment pertaining to their age and necessary psychological therapy.*

*Comments and recommendations:*

#### *Article 25 Special protection to women*

*Government shall take the benefits and special demand of women into consideration, hear the claims by women when making legislations concerning HIV/AIDS prevention and cure for the sake of ensuring the participation of women in the policy and law making and implementation.*

*Governments shall advocate the gender-based activities like self-education, mutual help regarding HIV/AIDS prevention and cure by women.*

*Comments and recommendations:*

#### *Article 26 The safeguard of rights of the detained*

*Those lawful detained shall be informed of the result of the HIV/AIDS test. Those who are diagnosed as HIV/AIDS-positive shall be granted psychological and medical consultancy when he/she is informed of the result.*

*Those who are diagnosed as HIV/AIDS-positive shall be examined by physicians on a regular basis and shall get therapy when necessary. The cost for the therapy will be covered by government's finance.*

*Those who are diagnosed as HIV/AIDS-positive shall be treated in hospitals within the detaining place or in hospitals beyond the detaining place pursuant to law if the patient is taken bad.*

*Comments and recommendations:*

#### *Article 27 Provisions for special professions*

*Applicants or the incumbent for positions of civil servants or funded by other governmental financial disbursement shall be available to the HIV/AIDS-positives and shall not be terminated for the same reason.*

*HIV/AIDS-positives may not be acceptable to positions with special requirements to body tonicity such as armyman or policeman, whereas the incumbent shall not be dismissed but can be transferred to other positions.*

*Comments and recommendations:*

*Comments and recommendations for Chapter 2:*

### *Chapter 3 The Obligation and Organizational Structure of Government*

*Article 28 Coordinator organs of governments (task committee or task force)*

*Governments shall establish task committee or task force concerning HIV/AIDS*

*prevention and cure; shall coordinate among the internal organs and the relations of government and non profit non governmental organizations (NGOs), enterprises and community autonomous organizations and work together with them to prevent HIV/AIDS transmit.*

*Comments and recommendations:*

*Article 29Ad hoc organs of government administration (health administration)*

*Health administration shall put emphasis on rural area and on prevention, initiate all the member of the society, together with other government departments and bear the positive obligation in terms of public health, which include:*

*Establishing health care and HIV/AIDS prevention networking system with a maximum coverage rate. The network will integrate hospitals, community medical facilities and rural doctors;*

*Helping the public aware of how to be protected from being infected by HIV/AIDS;*

*Helping those infected know how he/she can be treated;*

*Issuing the data about the situation of HIV/AIDS transmit and measures governments have taken as problems to the public on a regular basis.*

*Health administration shall coordinate the role and obligations of its affiliated functional organs including HIV/AIDS prevention and control facilities, grass root healthcare and the planning and finance sectors in HIV/AIDS prevention and cure.*

*Health administration shall report to the local government and the People's Congress on HIV/AIDS prevention and cure task on a regular basis; notify other functional departments within government relating to HIV/AIDS prevention and cure and other related problems; take actions under the cooperation with these organs to improve the HIV/AIDS prevention and cure work.*

*Comments and recommendations:*

*Article 30Ad hoc organs of government administration (Chinese and western medicine administration)*

*Chinese medicine administration of government shall make and organize the scientific research planning of Chinese medicine (including ethnical medicine) for the HIV/AIDS prevention and cure, make the administrative norms and technical standards for the HIV/AIDS tending, prevention and clinic treatment with Chinese medicine; positively promote and supervise the HIV/AIDS prevention and cure with Chinese medicine; promote the integration of Chinese and western medicine in the HIV/AIDS prevention and cure with other related organs in government.*

*Comments and recommendations:*

*Article 31 Ad hoc organs of government administration (food and drug administration)*

*Food and drug administration of government shall administratively and technically supervise the research, production, circulation and use of medicine for HIV/AIDS prevention and cure (including Chinese medicinal materials, Chinese drinking medicine, Chinese finished medicine, biochemical drug, biological product, diagnosing medicine, poisonous drug and chlorpromazine) and other related products. It shall also enact and issue the legal standard for HIV/AIDS prevention and cure medicine, the registration requirements for new medicine, imitated medicine and imported medicine aiming at HIV/AIDS prevention and cure, and the procedure for the approval of the clinic test and production of HIV/AIDS prevention and cure medicine.*

*Comments and recommendations:*

*Article 32 Ad hoc organs of government administration (population and planned family policy administration)*

*Population and family planning policy administration of government shall cooperate with the HIV/AIDS prevention and cure task in its role of upgrading the quality of population, carrying out education on procreation and adolescence health as well as the distribution of drug and facilities for birth control.*

*Comments and recommendations:*

### *Article 33 Government and related organs (committee members)*

*Every functional department and related organs in the government shall cooperate with each other under the guidance of HIV/AIDS prevention and cure task committee or task force and take their obligations respectively and jointly.*

*Government shall take the HIV/AIDS epidemic situation as part of the element for living quality of people, the development and reform, and take the HIV/AIDS prevention and cure as part of the integrated government affairs in the process of establishing development plan, mid-and-long term development plan, 5-year economic and social development plan, annual work plan and various reform scenario, of enacting law and statutes, as well of making forecast and pre-warning. Government shall coordinate, link up and balance reforms in different arenas, the enactment of law and the building of institutions and the implementation of plans based on HIV/AIDS prevention and cure, and take it as an organic part of the overall task in the appraisal of regional development and the performance of the government officials. The development and reform committee, the bureaux and research centers of government is obliged in this regard.*

*Government shall ensure the fund necessary for HIV/AIDS prevention and cure and monitor the use of the fund. The financial administration and auditing department play a role in this regard.*

*Government shall ensure that the reform scenario of social security system is pertained to the need for HIV/AIDS prevention and cure. The labor and social security administration of government are accountable in this regard.*

*Government shall advocate the scientific research and professional education and training concerning HIV/AIDS prevention and cure. The science and education administration are obliged in this regard.*

*Government shall advocate the public involvement in HIV/AIDS prevention and cure and establish special fund for supporting public involvement. The ministry of civil affairs, labor union, women's union, the Red Cross, Charity, youth volunteer association, as well as the health administration of government shall bear the obligation in this regard.*

*Government shall advocate the propaganda of HIV/AIDS prevention and cure; state owned media shall constantly develop programs to disseminate information and knowledge on HIV/AIDS prevention and cure. The propaganda department of the Party, the culture administration, broadcast and TV administration, cyber administration as well as the press and publication administration of government shall be accountable in this regard.*

*Government shall provide special aid to HIV/AIDS-positives and their family, esp. the old, widows and orphans who are living a hard life. The ministry of civil affairs, agriculture administration, ethnic affairs administration and educational administration of the government shall be accountable in this regard.*

*Government shall take the need to HIV/AIDS prevention and cure into account in the community building and rebuilding. The ministry of civil affairs and educational administration of the government shall be accountable in this regard.*

*Government shall be devoted to the decrease the amount of drug taken by drug addicts or of the number of drug addicts. The ministry of civil affairs, labor union, women's union, youth volunteer association, as well as the education administration of government shall bear the obligation in this regard.*

*Government shall advocate the international cooperation concerning HIV/AIDS prevention and cure by facilitating the signing and implementing of international assistant contract or credit loan contract with international organization and foreign gov. industrial and business administration, health and civil affairs administration of government shall be accountable in this regard.*

*Government shall strengthen the regulation toward the research, production, circulation and market operation of HIV/AIDS medicine and other related items, as well as the administration of import and export and technical trade so as to make it develop to the direction favorable to HIV/AIDS prevention and cure. The industrial and business administration, intellectual property administration, quality regulation and supervision administration of the government shall be obliged in this regard.*

*Government shall integrate the task of anti-drug abuse, anti-prostitution and anti-HIV/AIDS. The public security administration, judicial administration and health administration of government shall be accountable in this regard.*

*Government shall positively uphold the NGOs intervening to the targeted group for reducing potential harm. The public security administration and health administration of the government shall be accountable in this regard.*

*Government shall advocate the propaganda of HIV/AIDS prevention and cure. The propaganda department of the Party, the culture administration, broadcast and TV administration, cyber administration and the press and publication administration of government, as well as the tourism administration, railway administration, transport administration and civic airline administration of the government shall be accountable in this regard.*

*The accountable organs mentioned in the above provisions shall be notifiably criticized if they fail to meet their obligation; the officials directly in charge of and the head officials of it shall be administratively punished if it proves to be significantly negligent or has caused great loss or damage to citizens.*

*Comments and recommendations:*

#### *Article 34 Publicity of government affairs*

*Government shall publicize all the information they have got, decisions and basis and result thereof they have made concerning HIV/AIDS prevention and cure, with the exception of national secret, commercial secret and individual's privacy.*

*Public is entitled the right to refer to the publicized information. The organs charged with the publication of government information shall provide facilities for public's reference.*

*Comments and recommendations:*

#### *Article 35 Information publication of government*

*Health administrations at all levels of the government are obliged to publicize information concerning HIV/AIDS prevention and cure, which at least include:*

- (a) the HIV/AIDS epidemic situation and related data and new emerged problems;*
- (b) methods that can be used by public for self-protection;*
- (c) Policy, law and document made by government concerning HIV/AIDS prevention and cure, and the work and problems existing in the work done by government.*

*Comments and recommendations:*

#### *Article 36 The support to volunteers and social organizations*

*Government shall support the involvement of volunteers and social organizations in the HIV/AIDS prevention and cure.*

*The health administration department in charge of the registration shall decide to approve or disapprove within 1 month to the applicant who, a private and non-enterprises or a social organization, is legally eligible in terms of HIV/AIDS prevention and cure. Should the decision be disapproval, the health administration shall make explanations concerning its decision. The applicant may apply for administrative reconsideration or bring a charge against the administration.*

*Contract actions by voluntaries who are not eligible to create a social organization shall be managed alternatively by a social organization and shall be financially managed and monitored by a financial organ appointed by the health administration.*

*Comments and recommendations:*

#### *Article 37 Financial advocacy and revenue*

*Financial fund from government for HIV/AIDS prevention and cure shall be classified in terms of treatment, aid, prevention, propaganda and social initiative. The budget for the fund shall be done 3 months prior to the new financial year together with the cooperation with related departments including health, civil affairs, propaganda, culture and education administrations; the fund shall be disbursed according to the budget plan in a timely manner since the beginning of the new financial year.*

*If fund from central government is in support of the local and region through payment transfer, the local government shall use the fund pursuant to the planned programs and time arrangement and shall not embezzle the fund for other purposes.*

*Financial fund for HIV/AIDS prevention and cure shall be spent through bidding, with the exception of other related law provisions.*

*Financial fund spent on HIV/AIDS prevention and cure, as well as fund from foreign governments or international organizations through inter-governmental contracts for HIV/AIDS prevention and cure shall be audited by the administration of audit of the government.*

*The import, production and marketing of medicine, vaccine and other facilities for HIV/AIDS prevention and cure are tax free. The catalog for free taxed medicine, vaccine and other facilities for HIV/AIDS prevention and cure shall be made by government.*

*Comments and recommendations:*

*Comments and recommendations for chapter 3:*

## Chapter 4 The Obligation of Ad Hoc Organizations

### *Article 38 Supervisory function of HIV/AIDS prevention and control organs*

*HIV/AIDS prevention and control organs or epidemic prevention organs affiliated to health administration is commissioned by State Department HIV/AIDS prevention and cure task committee to be in charge of reporting and management of the HIV/AIDS epidemic situation, investigation, data collection and analysis of epidemiology, and of reporting to State Department HIV/AIDS prevention and cure task committee in a timely, precisely and comprehensively manner.*

*The person directly in charge and the person with a leader's role in HIV/AIDS prevention and control organs or epidemic prevention organs shall be administratively punished for the subreption behavior such as failing to report, late to report and disguised report. If great problems are not coming to light and thereby cause damage or other serious effects, the person in charge should be dismissed, degraded or fired out.*

*Comments and recommendations:*

### *Article 39 Other responsibilities of HIV/AIDS prevention and control organs*

*HIV/AIDS prevention and control organs or epidemic prevention organs under the guidance of health administration are obliged to play a role in the commitment, treatment, care and education concerning HIV/AIDS prevention and cure; in the research and application of science of pathogeny, immunology and lab technology; and in providing technical support to the multi sector involved HIV/AIDS prevention and cure.*

*HIV/AIDS prevention and control organs or epidemic prevention organs is obliged to put forward proposals concerning strategies for HIV/AIDS epidemic prevention and control and the enactment of related policies, laws and technical standards.*

*The description of the foregoing obligations of HIV/AIDS prevention and control organs or epidemic prevention organs does not mean the monopoly of these organs in this regard. HIV/AIDS prevention and control organs or epidemic prevention organs shall develop cooperative relations with other organs, institutes and individuals, be tolerant to different claims and modus operandi by other organs, institutes and individuals in this field, with the exception of some legal provisions.*

*Comments and recommendations:*

#### *Article 40 Coordination between hospitals and prevention & control organs*

*HIV/AIDS prevention and control organs or epidemic prevention organs and medical institutes shall jointly work on and institutionally abide by the rules of division and cooperation in the HIV/AIDS prevention and cure.*

*Health administrations shall be responsible for solving the relationship problems for HIV/AIDS prevention and control organs or epidemic prevention organs and medical institutes in the task of HIV/AIDS prevention and cure.*

*Should the HIV/AIDS prevention and control organs or epidemic prevention organs and medical institutes be buck-passing and refuse to cooperate with each other, which cause damage to the HIV/AIDS-positives or other people, the person in charge or the person with a leader's role shall be punished pursuant to administrative law.*

*The person in charge or the person with a leader's role in the health administrations not responding effectively to the conflict or buck-passing of the HIV/AIDS prevention and control organs or epidemic prevention organs and medical institutes shall be punished pursuant to administrative law.*

*Comments and recommendations:*

*Comments and recommendations for chapter 4:*

### *Chapter 5 The Obligation of Physicians and hospitals*

#### *Article 41 Obligations of physicians*

*Physicians shall not refuse to treat a HIV/AIDS-positive patient. Physicians refusing to offer treatment shall be punished with a 6 month suspending of duty practice by health administrations at the county level and above.*

*The license of practice shall be withdrawn if a physician causes HIV/AIDS infection in his practice.*

*Physicians shall abide by the professional and ethical principles of informed consent and keeping secret for patient.*

*Comments and recommendations:*

#### *Article 42 Development of medicine and vaccine, and research on therapy*

*Physicians engaged in trial clinic treatment in the research of development and therapy of medicine and vaccine shall, pursuant to the principles of informed consent, tell the patient all the information including the purpose and possible prognosis of the trial clinic treatment, and benefits that could be possibly brought to physicians, hospitals, enterprises, sponsors of the research and other future patients with languages understandable to patients. Only the consent by patients as well as by hospitals can the trial clinic treatment be carried out.*

*Physicians taking the trial clinic treatment in circumstance that the physicians failed to make the patient understand the purpose and possible prognosis of the trial clinic treatment, benefits that could be possibly brought to physicians, hospitals, enterprises, sponsors of the research and other future patients and thus without any explicit consent by patients, or that no consent by the hospital or approval by the health administration is available, he/she shall be punished with a 6 month suspending of duty practice. In case there is damage to the patients, his/her license for medical practice shall be withdrawn and he/she shall bear the corresponding civil liability.*

*Hospitals explicitly agree to the trial clinic treatment in circumstance of failing to make the patient understand the purpose and possible prognosis of the trial clinic treatment, benefits that could be possibly brought to physicians, hospitals, enterprises, sponsors of the research and other future patients, or that approval by the health administration is available, shall be notifiably criticized; or shall put up the shutters, be reded up for 3 months and bear the corresponding civil liability in case there is damage to the patient; hospitals shall be withdrawn the license of practice for serious damages to the patient or to more than one patients.*

*Comments and recommendations:*

#### *Article 43 Blood, sperm, marrow, organ and drug safety*

*Hospitals and physicians shall bear the joint obligation for the safety of blood, sperm, marrow, organ and drug used in the clinic treatment. If a patient is infected by HIV/AIDS virus for being treated with blood, sperm, marrow, organ and drug with HIV/AIDS virus in it, the hospital and the physicians both shall bear the corresponding civil liability.*

*Comments and recommendations:*

*Comments and recommendations for chapter 5:*

## *Chapter 6 The Obligation of Blood Procurement organs and Blood Product companies*

### *Article 44 Blood supplier*

*Blood procurement organs shall establish unified serial number for blood suppliers, and record the health situation, the quantum of blood supply and time of blooding in the electronic archHIV/AIDSes that can be referred to by blood procurement organs, hospitals and other unit using blood nationwide, so as to make sure the quality of the blood procured tally with the national standard.*

*Blood donors or blood suppliers should have the second physical check-up at any blood procurement organs nationwide. Prior to this, blood procurement organs shall reserve the blood person by person and the blood can be used only if the donor or supplier proves to be qualified by the second physical check-up.*

*The qualification of blood donors or blood suppliers using the number of others or false number shall be cancelled and the number of his own and number he used as his own shall be cancelled as well.*

*Blood donors or blood suppliers, who understand that they themselves are HIV/AIDS-positives, shall bear the corresponding civil or criminal liability for donating or providing blood knowingly.*

*Comments and recommendations:*

### *Article 45 Blood procurement organs (blood station and blood plasma station)*

*Blood procurement organs that do not provide physical check-up for blood donors or blood suppliers, or procure blood of those disqualified according to national medical standard knowingly, or procure excessive blood or procure blood too frequently, the person directly in charge or the person with a leading role shall be punished pursuant to administrative law. Should it causes the HIV/AIDS infections to other people, the person directly in charge or the person with a leading role shall be dismissed and bear the corresponding civil and criminal liability. The blood procurement organs will bear the joint liability.*

*Comments and recommendations:*

#### *Article 46 Hospitals consuming blood*

*Hospitals consuming blood shall inform the patient and its family of the risk of consuming blood.*

*Hospitals consuming blood shall make test to blood using in the clinic treatment. The person directly in charge or the person with a leading role shall be dismissed or the license for practice shall be withdrawn if they have; other persons accountable shall be dismissed and both shall bear the corresponding civil or criminal liability if the hospital consuming blood transfuse blood with HIV/AIDS virus to a patient who thereby get infected. Hospitals shall bear the joint liability.*

*Comments and recommendations:*

#### *Article 47 Blood product factories*

*Blood product factories shall not collect blood plasma to any blood station with no quality guarantee to the company. Blood product factories shall recheck and make record for each share of the blood plasma before using it. Only the qualified blood plasma can leave the factory.*

*Blood product with HIV/AIDS virus shall be the reason for the administrative punishment to the person directly in charge or the person with a leading role and the 3-month suspending of the practice to the factory. In case there is HIV/AIDS infection due to the disqualified blood, the person directly in charge or the person with a leading role shall be dismissed and bear the corresponding civil or criminal liability. The factory shall bear the joint liability.*

*Comments and recommendations:*

*Comments and recommendations for chapter 6:*

## Chapter 7 Medical Research and Professional Education

### Article 48 Medical research

*Research institutes of biology, pharmacy and medicine, and other universities, scientific research institutes and other capable institutes or individuals are supposed to make research on the therapy of HIV/AIDS prevention and cure or develop and manufacture medicine or vaccine targeting at HIV/AIDS prevention and cure.*

*Research on the therapy of HIV/AIDS prevention and cure or development and manufacture of medicine or vaccine targeting at HIV/AIDS prevention and cure shall be done within the framework of law in this field.*

*Gov advocate ethical and legal research by any institute or individual. Government shall establish fund of natural science, social science and education for providing support to projects relating to HIV/AIDS prevention and cure. Special fund from the foregoing fund may be used to HIV/AIDS related researches when necessary and possible.*

*Comments and recommendations:*

### Article 49 Education of medical schools

*Courses on HIV/AIDS prevention and cure shall be established in the clinic medical education program in medical schools; HIV/AIDS issues shall be highlighted in the teaching of treatment to related diseases; HIV/AIDS prevention and cure lectures shall be integrated in courses like public health, health law.*

*Universities and research institutes capable of developing master or doctorate degree program specializing in HIV/AIDS treatment are encouraged in the graduate education for social and natural sciences.*

*Comments and recommendations:*

### Article 50 Trainings

*Trainings to physicians and other medical staff (including boarder quarantine staff) concerning HIV/AIDS prevention and cure shall be done.*

*Trainings of policy, law and other related knowledge to policemen, judicial and administrative staff and staff charged with civil affairs that could possibly contact HIV/AIDS shall be done.*

*The cost for the foregoing training programs shall be covered by the government's financial disbursement.*

*Comments and recommendations:*

*Comments and recommendations for chapter 7:*

## *Chapter 8 Prevention*

### *PART I PROPAGANDA AND EDUCATION*

*Article 51 The provision of standardized manuals for propaganda and education purpose by governments*

*Government shall be obliged to provide data on HIV/AIDS epidemic situation as well as the information on self protection and medical treatment.*

*The central government shall, together with experts from the propaganda department of the Party, work on the standardized manuals containing the foregoing content for propaganda and education purpose; shall provide for free the electronic version and module to every region, every sectors and every fields for combined usage.*

*Government shall not limit or prohibit the publicity of information dissemination or propaganda or education that is expressed in a different way by researchers or non researchers compared with that by the government concerning HIV/AIDS prevention and cure, except that it is recognized to be malice or be able to bring negative effects by the government.*

*The issuer of the information recognized by the government to be malice or negative may apply for administrative reconsideration or bring an accusation against government.*

*Comments and recommendations:*

## *Article 52 The obligation of state-owned media*

*State-owned media is obliged to publicize standardized manuals containing HIV/AIDS prevention and cure by way of publishing or broadcasting to the common people.*

*State-owned media is obliged to provide for free certain space of the paper media or period of time of the electronic media for the propaganda and education concerning HIV/AIDS prevention and cure. The minimum standard for the space of the paper media or period of time of the electronic media shall be determined jointly by the health administration and the propaganda department the state-owned media is affiliated to.*

*Comments and recommendations:*

## *Article 53 Advertisement*

*Government shall make immovable commonwealth advertisement or posts containing HIV/AIDS prevention and cure at public sites such as the open office of the government, stations, wharf, airport, urban square, road sides and parks.*

*Community autonomous organizations are supposed to make commonwealth advertisement or posts containing HIV/AIDS prevention and cure at public sites within the community.*

*Enterprises and other social organizations may support the post or setup of the commonwealth advertisement or posts containing HIV/AIDS prevention and cure in terms of finance and human resources, or setup or post such ads with the approval of the government's public utilities, transport and advertisement administrations.*

*Commonwealth advertisement or posts containing HIV/AIDS prevention and cure can be legally set up or posted inside or outside a vehicle with the approval of special administration of government.*

*Non commonwealth advertisement or posts containing HIV/AIDS prevention and cure can be set up or posted with the approval of advertisement administration.*

*Comments and recommendations:*

## *Article 54 Manuals for propaganda of HIV/AIDS prevention and cure*

*Government, enterprises and NGOs may disseminate for free the manuals made by them or its electronically memorized version containing HIV/AIDS prevention and cure in public places. Whereas manual or its electronically memorized version targeting specific HIV/AIDS group of people shall not be disseminated in the public places.*

*Comments and recommendations:*

*Article 55Manuals for propaganda that may affect children*

*The content and form of propaganda in the public media and the commonwealth advertisement or manuals distributed in public places concerning HIV/AIDS prevention and cure shall not produce negative influence on children.*

*Comments and recommendations:*

*Article 56Obligation of propaganda and education for enterprises and other social organizations*

*At least 1 square meter sized propaganda column for HIV/AIDS prevention and cure shall be established at every 500 square meters in an enterprise or other social organization, and the content of the column shall be subject to change regularly pursuant to the standardized manual relating to HIV/AIDS prevention and cure provided by the government.*

*Enterprises and other social organizations are encouraged to develop more propaganda and education programs other than the above mentioned ones.*

*Comments and recommendations:*

*Article 57Obligation of Propaganda and education for schools*

*HIV/AIDS prevention and cure shall be integrated into the school education toward self*

*protection, care and altruism pursuant to the age of the students.*

*Schools may play a role in organizing or supporting students, according to their age and capacity, to be involved in the propaganda and assistance activities concerning HIV/AIDS prevention and cure.*

*Schools shall pay attention to avoid any negative impact on students when organizing or undertaking education or activities concerning HIV/AIDS prevention and cure.*

*Education administration shall be the superintendent for the foregoing activities and education programs organized by schools.*

*Comments and recommendations:*

#### *Article 58 Obligation of Propaganda and education for community and public places*

*Communities may play a role in initiating propaganda and education programs based on the situation of the community concerning HIV/AIDS prevention and cure, which should be supported by the government in terms of the guidance on the content and form as well as the financial side.*

*Comments and recommendations:*

#### *Article 59 The support from peer education*

*Public may initiate peer education concerning HIV/AIDS prevention and cure according to their own need. Gov may provide financial aid to these peer education but shall by no means intervene in the self education and self service program.*

*Comments and recommendations:*

*Comments and recommendations for section I:*

## SECTION II THE PREVENTION OF CONSANGUINEOUS AND IATROGENIC TRANSMIT

*Article 60The prohibition of usage of blood, sperm, marrow and organs with HIV/AIDS virus*

*Blood, sperm, marrow, organ, tissue and cell used by human body shall experience HIV/AIDS test. It is forbidden to procure and use it if it proved to be positive.*

*Any individual or organization shall not import blood, sperm, marrow, organ, tissue and cell without the approval by national food and drug administration.*

*The operation of the foregoing items in hospitals and other medical institutes shall be done in accordance to medical and technical standards. If someone is infected by HIV/AIDS due to the blood transmission, artificial fertilization or marrow or organ transplantation in the medical treatment, the license for duty practice of the physician directly in charge shall be withdrawn and he/she shall be prohibited to practice medicine and other related profession for the whole life; the medical institute accountable shall be suspended and redded up for 3 month or its license shall be withdrawn.*

*Comments and recommendations:*

*Article 61The destruction of one-off medical appliance and the disinfection of appliance*

*one-off medical appliance can be unpacked only before a very short period of time before usage and shall be collected and deposited uniformly and destroyed timely at the appointed place, of which persons specially assigned shall in charge. The person in charge shall be punished with a half year suspending of practice and the hospital in question shall be notifiably criticized by the local health administration if the one-off medical appliance is used repetitiously.*

*The person in charge shall be withdrawn the license for practice and be forbidden to be engaged in medical practice and related work for the whole life; the hospital in question shall be suspended for operation for 3 months or be withdrawn the license if the appliance that can be used repetitiously is not disinfected pursuant to established standards and thereby arose HIV/AIDS transmission.*

*Comments and recommendations:*

*Article 62 The prohibition of blood produce with HIV/AIDS virus*

*The production and use of blood produce with HIV/AIDS virus is strictly prohibited.*

*No organization or individual shall import blood produce without the approval of food and drug administration.*

*If a hospital uses blood produce with HIV/AIDS virus in the prescription for the patient, the person responsible for importing, producing, purchasing and the person working in the pharmacy of the hospital may all be accountable for it and may bear the corresponding civil or criminal liability.*

*If the person in charge of importing, purchasing drug or the management of the pharmacy in the hospital is the holder of the license for physicians, he/she shall be suspended for half year; should there is HIV/AIDS transmission due to him/her, his/her license shall be withdrawn and he/she shall be forbidden to practice medicine for the whole life; hospitals and the factory producing the drug shall be suspended for 3 months or the license shall be withdrawn.*

*Comments and recommendations:*

*Article 63 The disposition of the blood of the infected or body*

*Any traumatic blood, operational blood and debris shall be strictly deposited pursuant to the established technical requirements the same way as the HIV/AIDS infected items. There shall be a person specially assigned for the disposition of traumatic blood, operational blood and debris of a patient.*

*The person in charge shall be punished with a half year suspending of practice and the hospital in question shall be notifiably criticized by the local health administration if there is breach to the established requirements in the process of disposition. The person in charge shall be withdrawn the license for practice and be forbidden to be engaged in medical practice and related work for the whole life; the hospital in question shall be suspended for operation for 3 months or be withdrawn the license if it causes the HIV/AIDS transmission.*

*Comments and recommendations:*

*Article 64 The prevention of HIV/AIDS transmission in hairdressing and cosmetology*

*Practitioners in hairdressing or cosmetology industry shall be trained strictly to understand how to prevent and treat HIV/AIDS. The operational locale shall be decorated with the post of technical standards for disinfection of the appliance used for hairdressing or cosmetology in a place that is noticeable to clients. Appliance used for hairdressing or cosmetology that may break the skin shall be disinfected pursuant to the established technical standard in the presence of the client before the service is provided.*

*Government shall supervise and examine the appliances used for hairdressing or cosmetology. Government shall order it to be suspended and reded up if the appliance used is not disinfected according to the standard.*

*Comments and recommendations:*

*Article 65 The prevention of HIV/AIDS virus leakage in research process*

*The choice of the category of HIV/AIDS virus, the collection, transport, reservation, use and exchange of the sample shall all approved by the health administration.*

*The choice of the category of HIV/AIDS virus, the collection, transport, reservation, use and exchange of the sample shall be implemented pursuant to national safety standard for bacteria (virus) species and lab biology. Persons responsible for the category of HIV/AIDS virus, the collection, transport, reservation, use and exchange of the sample shall be integrated by the supervision of one chief leader.*

*If the national safety standard for bacteria (virus) species and lab biology is breached in the process of choosing the category of HIV/AIDS virus for research, and of the collection, transport, reservation, use and exchange of the sample virus, the person in charge and the person with a leading role shall be punished; if this arouses HIV/AIDS transmission, the person in charge and the person with a leading role shall be dismissed or the license for practice shall be withdrawn if they have; other persons accountable without a license shall be dismissed and both shall bear the corresponding civil or criminal liability; the medical institute they are working over shall bear the joint liability.*

*Comments and recommendations:*

*Article 66 HIV/AIDS infected items*

*HIV/AIDS prevention and control organs or epidemic prevention organs at the county level and above shall report to the health administration of its parallel if they discover any HIV/AIDS infected items by themselves or get the report of possible HIV/AIDS infected items. These items shall be sealed up, tested and disposed in a timely manner by the health administration.*

*Comments and recommendations:*

*Comments and recommendations for section II:*

**SECTION III ADVOCACY OF SAFE SEXUAL BEHAVIOR**

*Article 67 Sexual education pertaining to HIV/AIDS prevention and cure*

*Education on the principle of be responsible for others and not hurt others, as well as on the sexual transmission of HIV/AIDS and the role of condom in preventing HIV/AIDS shall be integrated in the sexual education, adolescence education or procreation education.*

*Comments and recommendations:*

*Article 68 National standard of condom and its development and betterment*

*Government shall support the development and betterment of condom and related produces. Scientific technique department of National Population and Family Planning Committee and the Standardization department of National Equality and Technical Supervision shall be obliged to establish and improve the national standard for condom based on the requirement of HIV/AIDS prevention and cure and the technical advancement, and to supervise the implementation of the standard.*

*Comments and recommendations:*

#### *Article 69 Advocacy of condom*

*Government shall advocate the use of condom. The advocacy of condom and how to use it in preventing HIV/AIDS shall be integrated in the sexual education, adolescence education or procreation education.*

*Comments and recommendations:*

#### *Article 70 Quality guaranty for condom*

*The production, import and sale of condom shall be pursuant to national standard. Any individual or organization shall report unsafe condom they have found to the Administration of quality supervision Inspection and Quarantine and the food and drug administration or the administration of industry and commerce. The foregoing government's organs shall confiscate and destroy the disqualified condom and make investigations concerning the liability of related persons.*

*Comments and recommendations:*

#### *Article 71 The supply of condom*

*Medical institutes and HIV/AIDS prevention and control organs or epidemic prevention organs shall provide for free with the HIV/AIDS patients whom it treats enough condoms that are qualified pursuant to national standard; the cost shall be covered by the governmental finance.*

*Condom retailers shall be obliged to offer low price condom that is needed by groups with low income level.*

*Condom automat shall be allowed to be fixed in public places by government, but the place shall be 300 meters away from primary schools and churches.*

*Comments and recommendations:*

*Article 72 Behavioral intervention to condom*

*Non profit NGOs such as the Charity shall be allowed to disseminate condoms to adults for the purpose of preventing HIV/AIDS transmission and eliminating the damage, but this can be done only if the adults are willing to accept.*

*Comments and recommendations:*

*Comments and recommendations for section III:*

**SECTION IV INTERDICTION OF HIV/AIDS MATERNAL-INFANT TRANSMISSION**

*Article 73 Procreation health and HIV/AIDS prevention and cure*

*The procreation education shall be linked and integrated with sexual education, adolescence education and antemarital education, so as to make the public understand the specific reasons for maternal-infant transmission of HIV/AIDS in pregnancy, parturition and post partum period and thereby enhance the public capability of withstanding HIV/AIDS.*

*Maternal-infant health care institutes, maternity hospitals, comprehensive hospitals, family planning service institutes and marriage registration centers shall be integrated and linked with each other so as to interdict the HIV/AIDS maternal-infant transmission.*

*Comments and recommendations:*

*Article 74 Advocacy of voluntary HIV/AIDS checkup in marriage and procreation*

*Marriage registration organs and health care system of government and the family planning service system shall advocate voluntary antemarital, ante-pregnancy or pregnancy HIV/AIDS checkup by informing the woman who is undergoing marriage registration or pregnancy or other gynecologic checkups of the significance of taking HIV/AIDS checkup to the health of herself and her offspring as well as the rules of secreting the checkup for her; if the woman agrees to take the HIV/AIDS checkup, the foregoing organs shall tell her the location of the appointed free HIV/AIDS checkup institutes by the government and provide related consulting service for her.*

*Comments and recommendations:*

*Article 75 Interdiction of maternal-infant transmission*

*Once the pregnant woman is HIV/AIDS infected or affirmed by medical test to be an HIV/AIDS-positive, the organs offering test, maternal-infant health care institutes, maternity hospitals or other medical institutes shall inform her of the location of the appointed free HIV/AIDS checkup institutes by the local government.*

*The medical institute appointed to be the provider of free HIV/AIDS checkup for pregnant patients shall explain in detail all the possibilities of the infant being infected by HIV/AIDS virus in the period of pregnancy, parturition and lactation, thus helping the pregnant patient to analyze the advantages and disadvantages of different choices for her and the infant. The pregnant patient will ultimately decide whether continue or terminate the gestation independently.*

*The pregnant HIV/AIDS patient shall be offered a free chance of induced abortion once she voluntarily decides to terminate the gestation; those who voluntarily decide to terminate the gestation and are willing to contraception shall be provided with guidance to contraception.*

*The pregnant HIV/AIDS patient shall, based on her free will, be informed of the possibility of reducing the maternal-infant transmission of HIV/AIDS provided by taking medicine, bearing the child in the hospital and manual feeding, and be provided with free maternal-infant health care for pregnancy and lactation if she decides to continue the pregnancy.*

*The pregnant HIV/AIDS patient shall be offered a free operation of parturition in the hospital if she voluntarily chooses to give birth to her baby in a hospital (including Caesarean birth).*

*If the patient decides to feed the infant by herself, she should be given guidance on the specific method of feeding.*

*Comments and recommendations:*

*Article 76 Special care to babies whose mother is HIV/AIDS-positives*

*With the prerequisite of the consent by the parent of a baby, the hospital responsible for deliver the baby or a medical institute appointed by the government where the baby was born may provide the baby with 1 to 6 week anti-reverse medicine for free and the guidance for using it. Government shall provide subsidy for the cost of milk powder for the baby if its parent is living a difficult life and agree to feed him in a manual way.*

*Under the consent of the parent of the baby, the medical institute appointed by the government where the baby was born shall provide HIV/AIDS antibody tracing test for the baby, whose mother is an HIV/AIDS patient, when it is 12 month old and 18 month old.*

*Under the consent of the parent of the baby, the medical institute appointed by the government where the baby was born shall provide free treatment for the baby infected by HIV/AIDS due to its mother who is an HIV/AIDS-positive.*

*Comments and recommendations:*

*Comments and recommendations for section IV:*

## **SECTION V VOCATIONAL EXPOSURE**

*Article 77The education of vocational exposure and the equipment of safeguard*

*Medical, epidemic prevention institutes and the police shall develop educational program on HIV/AIDS prevention of vocational exposure to the new staff, and develop the same kind of program to all the staff, so that all the staff can learn the methods for preventing HIV/AIDS infection for vocational exposure and enhance the consciousness of it.*

*Medical, epidemic prevention institutes and the police shall have training program on how to protect the staff from being infected by HIV/AIDS due to the vocational exposure, and equip the staff with safeguard facilities.*

*The quality, configure and quantity standards shall be made jointly by administration of health, the police and the judicial administration.*

*Comments and recommendations:*

#### *Article 78 Protection and prevention of vocational exposure*

*The epidemic prevention institutes at the county level and above shall appoint special persons to be responsible for vocational exposure incidents. The epidemic prevention institutes at the county level and above shall establish cooperation with experts in HIV/AIDS field who are working over medical institutes, medical schools or hospitals within the jurisdiction for fighting against HIV/AIDS infection due to vocational exposure.*

*The epidemic prevention institutes at the county level and above shall purchase and replace regularly medicine for prevention of vocational exposure. If the jurisdiction for the epidemic prevention institutes at the county level is too large or the transport is not so convenient, the medicine shall be placed and reserved in a way that it can be reached within 12 hours once the incident of vocational exposure happens.*

*Comments and recommendations:*

#### *Article 79 Disposition of vocational exposure*

*Partial disposition shall be done immediately once the vocational exposure happens. Then the epidemic prevention institute or hospital appointed by local government shall evaluate and ascertain the level of exposure and the capacity of the HIV/AIDS virus. Implement the preventive medication scenario; monitor the toxicity of the medicine taking by the patient, make observations and records; make registration and report.*

*Comments and recommendations:*

#### *Article 80 Succor and compensation for HIV/AIDS patient due to vocational exposure*

*A person infected by HIV/AIDS due to vocational exposure shall not be fired if he/she is working over a state-owned enterprise; the cost for therapy and the cost for the living expenses for the family member raised by the patient shall be covered by the state. The patient shall be compensated with RMB 300,000 once for ado by the state.*

*Comments and recommendations:*

*Comments and recommendations for section V:*

## SECTION VI BEHAVIORAL INTERFERENCE AGAINST MEDICAL DEPENDENCE

### *Article 81 The implementation of methadone alternative therapy*

*Government shall allow non profit NGOs, for the purpose of preventing the transmission of HIV/AIDS and reducing the risk of patients, to provide methadone or other alternative medicine therapy to heroin relier under the guidance and supervision of health administration at provincial level, the police and national food and drug administration and with the consent of the heroin relier.*

*Non profit NGOs providing methadone or other alternative medicine therapy to heroin relier shall have to be the holder of license for medical institutes and its working staff shall include physicians and anesthetists with professional licenses.*

*Providing methadone or other alternative medicine therapy to heroin relier shall have to be non profit.*

*Providing methadone or other alternative medicine therapy to heroin relier shall be accompanied with psychological consultancy, therapy and assistance.*

*Methadone or other alternative medicine therapy provided to heroin relier shall be supplied uniformly by the state. The production, transport, reservation and use of the methadone or other alternative medicine shall be pursuant to related law provisions.*

*Comments and recommendations:*

### *Article 82 The replacement of acus*

*Government shall allow non profit NGOs, for the purpose of preventing the transmission of HIV/AIDS and reducing the risk of patients, to provide clean replacement site of acus within the community to heroin relier with the consent of the heroin relier under the guidance and supervision of health administration at provincial level and the police.*

*Providing clean replacement site of acus for the service of heroin relier shall be non profit.*

*Providing clean replacement site of acus for the service of heroin relier shall be accompanied with psychological consultancy, therapy and assistance.*

*Comments and recommendations:*

*Comments and recommendations for section VI:*

*Comments and recommendations for chapter 8:*

## *Chapter 9 Test and Therapy*

### *SECTION I TEST*

*Article 83 First screening, retest and affirmative test*

*Government shall establish first screening lab and consultancy office in epidemic prevention institutes or hospitals at county level and provide free HIV/AIDS first screening test for citizens voluntarily enrolled.*

*There shall be independent room or space for the consultancy office so that citizens can be served the more convenient, privatized and humane consultancy. On the basis of informed consent, the consultant shall make the HIV/AIDS test sheet for the testee for his/her reference and fill it in the registration form when the voluntary test is over.*

*If the first screening is positive or uncertain, the testee is supposed to take the retest. If the retest is still positive, he/she is supposed to take the affirmative test.*

*For those who cannot afford the cost for the tests, government shall take such circumstances into consideration and partially or totally cover the cost for them.*

*A Testee with HIV/AIDS positive shall fill in the "card for epidemics (HIV/AIDS)" with his/her real name, while the testee shall be given the HIV/AIDS diagnosis card with a special code number on it.*

*HIV/AIDS-positives may take this HIV/AIDS diagnosis card with a special code number on it to be diagnosed at any hospitals nationwide without having to register his/her name again.*

*Epidemic prevention institutes or hospitals responsible for HIV/AIDS test shall establish task archives of HIV/AIDS test.*

*Comments and recommendations:*

*Article 84 Measurement to virus capacity and CD4+T lymphocyte test*

*Epidemic prevention institutes or hospitals appointed by the government for HIV/AIDS treatment shall provide virus capacity and CD4+T lymphocyte test for the HIV/AIDS-positives at the interval pursuant to medical requirement for the purpose of anticipating the dynamics of the disease, using the anti-virus medicine properly, evaluating the effect of therapy and readjust the therapy scenario.*

*The cost of virus capacity and CD4+T lymphocyte test shall be paid by medicare if the testee is insured by medicare system; or shall be covered by government partially or totally if the testee is not insured by any medicare system while living a very difficult life.*

*Comments and recommendations:*

*Article 85 Report on epidemics and protection of privacy*

*Epidemic prevention institutes or hospitals responsible for HIV/AIDS test shall inform the testee of the result and provide medical explanation to it conscientiously. The explanation to the positive result or infection by HIV/AIDS shall be accompanied by psychological guidance.*

*Epidemic prevention institutes or hospitals responsible for HIV/AIDS test shall not leak any personal information of the HIV/AIDS test while reporting to the health administration.*

*Comments and recommendations:*

*Comments and recommendation for section I:*

**SECTION II DIAGNOSIS AND THERAPY**

*Article 86 The diagnosis, therapy and prevention of opportunistic infection*

*Epidemic prevention institutes responsible for HIV/AIDS prevention and cure, and*

*hospitals appointed by the government specializing HIV/AIDS treatment shall pay special attention to the diagnosis and therapy to opportunistic infections such as Lung spore insect pneumonia, tuberculosis, infection of Mycobacterium, cytomegalovirus retina choroiditis, toxoplasma encephalopathy and fungus infection that are frequently seen.*

*The cost for prevention of opportunistic infection and the therapeutical medicine shall be paid by medicare if the patient is insured by medicare system; or shall be covered by government partially or totally if the patient is not insured by any medicare system while living a very difficult life.*

*Comments and recommendations:*

#### *Article 87Anti-reverse transcription therapy*

*For the purpose of maximally preventing the copy of HIV/AIDS virus in the body of the patient, maintaining and recovering the immunity capacity of the patient, reducing the incidence of terminal ill and improving the living quality of the patient, epidemic prevention institutes and hospitals appointed by the government shall provide the patient with anti-reverse transcription therapy pursuant to established medical standard.*

*The cost for anti-reverse transcription therapy shall be paid by medicare if the patient is insured by medicare system; or shall be covered by government partially or totally if the patient is not insured by any medicare system while living a very difficult life.*

*Comments and recommendations:*

#### *Article 88Therapy to pregnant or lying-in women and protection to infants*

*Therapy to pregnant or lying-in women among the HIV/AIDS patients shall integrate the consideration impact of the therapy to both the patient and the infant as well as the maternal-infant transmission.*

*Medical institute appointed by the government to the HIV/AIDS maternal treatment shall provide guidance on how infant can avoid being infected, and help the patient to protect the infant with the consent of the patient herself.*

*Comments and recommendations:*

*Article 89 Therapy to children*

*Government shall ensure that children infected by HIV/AIDS can be provided with anti virus therapy and anti-opportunistic infection treatment that is appropriate to them. Meanwhile, children and their parents shall be offered psychological consultancy and assistance.*

*Comments and recommendations:*

*Article 90 Therapy to other symptom of HIV/AIDS-positives*

*Comprehensive hospitals and specialized hospitals shall not refuse to provide medical service to HIV/AIDS-positives or to provide medical service other than HIV/AIDS therapy to HIV/AIDS patients.*

*Comprehensive hospitals and specialized hospitals shall make annunciation at places such as registration or pharmacy office to let the patient understand that confessing the fact that he/she is HIV/AIDS-positive will be more helpful for physicians to provide proper medical service to him/her; if the treatment is improper due to the non confession of the patient, the patient shall bear the liability by himself/herself.*

*Comments and recommendations:*

*Comments and recommendation for section II:*

*Comments and recommendations for chapter 9:*

## *Chapter 10 Epidemic Situation Report and the Analysis of Epidemic Trend and its Impact*

### *SECTION I: SURVEILLANCE, EPIDEMIC SITUATION REPORT AND EPIDEMIOLOGICAL INVESTIGATION*

#### *Article 91 The development of nationally integrated supervision networking*

*For predicting the epidemic situation and analysis of its impact to the social development, enacting rules of HIV/AIDS prevention and control planning, government shall be obliged to developing a national supervision networking integrating HIV/AIDS supervision, venereal disease supervision, biological supervision and behavioral supervision pursuant to the administrative jurisdiction.*

*The national supervision networking is composed by disease prevention and control (epidemic prevention) system, national HIV/AIDS supervision spot, comprehensive hospitals and specialized hospitals, health care, quarantine, blood procurement and supply, factory producing blood and biological items and is led by the administration of health.*

*Government shall make analysis and adjustment concerning the distribution and layout of the integrated supervision network. The member unit shall bear the liability for its failure in its work and its impact on HIV/AIDS prevention.*

*Comments and recommendations:*

#### *Article 92 Supervision*

*HIV/AIDS supervision spot shall collect the biological and behavioral information to the specific group of people within its jurisdiction at intervals that is ruled, and report the result and the number of people inspected to the disease prevention and control centers in a timely manner.*

*The reason for, the number of testees, and the number of HIV/AIDS-positives of HIV/AIDS infection cases, found in the diagnosis, surgery, death identification in Comprehensive hospitals and specialized hospitals, physical checkup for marriage, school or army enrollment and HIV/AIDS voluntary test in hospitals and health care or epidemic prevention organs, as well as in quarantine, blood procurement and supply, factory producing blood and biological items, shall be reported to the disease prevention and control centers.*

*Individual privacy shall be respected and be kept as a secret so as to avoid social*

*discrimination if the test is reported as part of the task of supervision.*

*Comments and recommendations:*

#### *Article 93 Reports*

*Disease prevention and control centers or epidemic prevention organs shall report to the administration of health of the central government of its parallels the data and problems of the epidemic situation. Disease prevention and control centers or epidemic prevention organs shall be notifiably criticized for its failure to timely report; the person directly in charge or the one with a leading role shall be punished pursuant to the administrative law if the failure arose several damages.*

*Comments and recommendations:*

#### *Article 94 Investigation on epidemiology*

*Administration of health may entrust disease prevention and control (epidemic prevention) organs, experts or other social organizations to take investigations concerning the epidemic situation and investigations of the variety of behavior and its factors targeting at specific region or group of people.*

*Experts, research institutes or other social organizations may take investigations concerning the epidemic situation and investigations of the variety of behavior and its factors targeting at specific region or group of people based on research or the professional need.*

*The result of the foregoing investigations by experts, research institutes or other social organizations and the intellectual property rights of its research remain with the researchers or investigators. But experts, research institutes or other social organizations shall submit the transcript of the research or investigation to the administration of health so that it can be served to the public health undertakings.*

*Comments and recommendations:*

*Comments and recommendations for section I:*

## **SECTION II ANALYSIS OF EPIDEMIC SITUATION AND ITS IMPACT**

*Article 95 Analysis of epidemic situation and its impact*

*Government shall entrust the disease prevention and control centers or epidemic prevention organs to take investigations on epidemic situation and its impact or on variety of behavior and factors targeting specific regions and groups of people.*

*The development and reform committee, the bureau of statistics, administration of population and family planning, administration of health, and experts of macro economics, social study, biology, pharmacy and medicine shall be invited to participate in the analysis of epidemic situation and its impact when disease prevention and control centers or epidemic prevention organs at national and provincial level are making analysis of epidemic situation and its impact.*

*Comments and recommendations:*

*Article 96 The publicity of report on analysis of epidemic situation and its impact and the hearing of related comments*

*After hearing the report on the analysis of epidemic situation and its impact, government shall issue the annual report on epidemic situation and its impact, while hearing the comments from other related functional departments, experts and the public, especially from the HIV/AIDS patients and related group of people.*

*Comments and recommendations:*

*Comments and recommendations for section II:*

*Comments and recommendations for chapter 10:*

## *Chapter 11 Development and Facilitation: Care and Help*

### *SECTION 1 COMMUNITY*

#### *Article 97 HIV/AIDS prevention by the community autonomous organs*

*Community autonomous organs such as villager committee or resident committee shall take the HIV/AIDS prevention and the care and help to the susceptible group and the infected as part of their task.*

*Comments and recommendations:*

#### *Article 98 HIV/AIDS prevention in community hospitals or medical institutes*

*Hospitals or medical institutes shall be established in the community. Administration of health at county levels shall be charged with the approval of the qualified establishment of medical institutes in the community applied by individuals or work units. Gov are responsible for establish medical institutes for a community if there is no one available. Community physicians shall take the responsibility of HIV/AIDS prevention and treatment for the community after training.*

*Comments and recommendations:*

#### *Article 99 HIV/AIDS care campaign within the community*

*Government shall be obliged to provide companion for HIV/AIDS care campaign and other reference books and items for the training, propaganda and education campaign in the community, to fund for the campaign through bidding, to support the care campaign concerning HIV/AIDS prevention within the member of the community, and to advocate the voluntary HIV/AIDS care campaign by the grass roots.*

*Comments and recommendations:*

*Article 100 HIV/AIDS care campaign outside the community*

*Gov permit the HIV/AIDS care campaign held by outside non profit NGOs to enter the community.*

*Gov permit outside enterprises and non profit NGOs to fund the HIV/AIDS care campaign by the member of the community for the purpose of facilitating HIV/AIDS prevention.*

*Comments and recommendations:*

*Comments and recommendations for section I:*

**SECTION II HELP AND SELF HELP**

*Article 101 Help to the infected and patients*

*The administration of civil affairs shall provide help pertaining to the population of the family of the HIV/AIDS patient and infected who is living a hard life and is not insured by the medicare system.*

*Comments and recommendations:*

*Article 102 Self help by the infected and patients*

*Gov encourage the self help by the HIV/AIDS infected and patient who is still capable of working. Government shall assist the self help of them by way of providing fund, projects and order form, etc.*

*Comments and recommendations:*

*Comments and recommendations for section II:*

### **SECTION III HELP TO THE FAMILY OF DEAD HIV/AIDS PATIENT**

#### *Article 103 Help aiming at children*

*Government shall establish children's home to cultivate children whose mother or father or both or other guardian died for HIV/AIDS until he/she could live by him/herself when he/she is growing up.*

*Government shall cover the cost of the compulsory education and vocational training to children whose mother or father or both or other guardian died for HIV/AIDS.*

*Gov permit the relatives of the child whose mother or father or both or other guardian died for HIV/AIDS to raise him/her.*

*Gov permit various help to children whose mother or father or both or other guardian died for HIV/AIDS by citizens, enterprises, non profit NGOs and other social organizations.*

*Comments and recommendations:*

#### *Article 104 Compulsory education and vocational training*

*In regions that free compulsory education is not implemented, government shall cover the cost of compulsory education and vocational training for children whose parent or other guardian is HIV/AIDS patient.*

*Government shall cover the cost of vocational training for children whose parent or other guardian is HIV/AIDS patient.*

*Comments and recommendations:*

#### *Article 105 Help aiming at family members other than the children*

*The civil affairs administration of government shall pay monthly living expenses for the old or a person without living capacity who was originally raised by the HIV/AIDS patient who is already passed away in the places where there is no minimum living security mechanism. Special help shall be available if they have special destitution.*

*Some of other persons originally raised by the HIV/AIDS patient who is already passed away may be provided with financial help partially by the civil affairs administration.*

*Comments and recommendations:*

#### *Article 106 Financial support*

*Concerning the foregoing various financial disbursement by the governments, the central government shall cover the cost if the place in question falls into the key HIV/AIDS epidemic region. For HIV/AIDS in the non-key HIV/AIDS epidemic region, the central government shall cover the cost if the financial revenue in that region is below the national average level, otherwise the cost shall be covered by the local government. If the financial revenue for the county is below the national average level, government at the provincial level shall play a role in coordination if the cost shall be covered by the local government.*

*Comments and recommendations:*

*Comments and recommendations for section III:*

### **SECTION IV COMMONWEALTH UNDERTAKINGS**

#### *Article 107 Volunteers*

*Gov advocate the commitment, the endowment of citizens to HIV/AIDS prevention and cure, and the citizen's participation in the propaganda and education, help and care campaign to HIV/AIDS infected and patient as a volunteer. Gov permit the behavioral intervention by citizens as volunteers for the sake of reducing the damage to susceptible group of people.*

*Comments and recommendations:*

*Article 108 Civic republics, non enterprise organizations and Christian organizations*

*Gov advocate the endowment by civic republics, private non-enterprise organizations and Christian organizations in the HIV/AIDS prevention and control.*

*Comments and recommendations:*

*Article 109 Foundations*

*Gov permit and advocate projects for the registration of foundations aiming at providing fund and help for HIV/AIDS prevention and cure.*

*Comments and recommendations:*

*Article 110 Commonwealth campaigns by enterprises*

*Gov advocate the active participation of enterprises in the commonwealth campaign related to HIV/AIDS prevention and cure.*

*Comments and recommendations:*

*Comments and recommendations for section IV:*

## SECTION V INTERNATIONAL COOPERATION

### Article 111

*Gov advocate international cooperation in regard with HIV/AIDS prevention and cure through communication, research and development of therapy, medicine and vaccine and negotiation upon admission of medicine production.*

*Comments and recommendations:*

### Article 112

*The imported international cooperation projects approved by the government shall be beneficial to the majority of people, esp. the HIV/AIDS infected group and susceptible group.*

*Comments and recommendations:*

*Comments and recommendations for section V:*

*Comments and recommendations for chapter 11:*

## *Chapter 12 Administrative Redress, Judicial Redress and Legal Aid*

## SECTION I ADMINISTRATIVE REDRESS

### Article 113

*The administration of government shall accept and hear the case and make the judgment within the legal term if a citizen, legal entity and other organization applies for administrative reconsideration.*

*Comments and recommendations:*

#### *Article 114*

*If a citizen, legal entity or other organization brings forward a demurral against administrative regulations or the normative documents concerning HIV/AIDS, the organ accountable for enactment and the organ for implementation shall consider and determine how to deal with the demurral pursuant to law.*

*Comments and recommendations:*

*Comments and recommendations for section I:*

## *SECTION II JUDICIAL adjudgement*

### *Article 115 Administrative litigation*

*Petition of litigation relating HIV/AIDS and national compensation must be accepted by the court and related administration department. There shall be no provision restricting such acceptance in administrative law, provincial statute, governmental regulations and other normative documents. The government administrations shall not interfere with the acceptance and inquisition to cases relating to HIV/AIDS in any manner.*

*Government administrations shall respond and answer any inquiry to administrative litigations on HIV/AIDS accepted by courts. Government administrations shall consciously implement the efficient administrative adjudication made by courts.*

*Government administrations shall uphold the implementation to efficient civil or criminal adjudication to HIV/AIDS cases by the courts.*

*Comments and recommendations:*

*Article 116 Anonymous litigation and privacy protection of the HIV/AIDS infected and patient*

*If the plaintiff is the HIV/AIDS infected or patient, or the family of him/her or other related person, the court shall allow him/her to litigate anonymously once he/she is identified. The inquisition of the case may not be held openly if the plaintiff request non open inquisition. Courts shall pay attention to protect the personal privacy during the acceptance, inquisition, adjudication and implementation process of an HIV/AIDS case.*

*Comments and recommendations:*

*Article 117 The cost of litigation*

*Courts shall derate the litigation fees if the HIV/AIDS infected or patient, or the family of him/her or other related person is economically disadvantaged in a HIV/AIDS case.*

*Comments and recommendations:*

*Article 118 Class action and commonweal organizations*

*In cases relating to HIV/AIDS, if the defendant is the same person or the same organization, while there are a number of plaintiffs and the plot and nature of the cases is the similar, courts may take these cases as class action.*

*Citizens, legal entities or other organizations can litigate for the class action without discontent of the HIV/AIDS infected or patient, or the family of him/her or other related person in cases relating HIV/AIDS.*

*Comments and recommendations:*

*Comments and recommendations for section II:*

### *SECTION III Legal Aid*

#### *Article 119 Legal aid*

*The legal aid organizations established by the government or law firms are supposed to provide legal aid for the HIV/AIDS infected or patient, or the family of him/her or other related person that is economically disadvantaged and could not afford the litigation fees for lawsuit relating HIV/AIDS.*

*Comments and recommendations:*

*Comments and recommendations for section III:*

*Comments and recommendations for chapter 12:*

### *Chapter 13 Audit and Social Appraisal*

#### *Article 120 Audit*

*Financial fund spent on HIV/AIDS prevention and cure, as well as fund from foreign governments or international organizations through inter-governmental contracts for HIV/AIDS prevention and cure shall be audited by the administration of audit of the government.*

*Comments and recommendations:*

## *Article 121 Social appraisal*

*Governments shall make biennial and comprehensive social appraisal to the HIV/AIDS epidemic and problems, as well as the plan made by and actions taken by the state and the society. Experts in field of strategic development, macro economics, bioethics, law, public policy, and politics, economics, sociology, biology, pharmacy and medicine shall be engaged in the appraisal. Among the experts invited by the government, independent experts working over non government administrations shall account for 3/5 of the total number.*

*The social appraisal report on HIV/AIDS shall be publicized.*

*Government shall make reference to the social appraisal report for the enactment and improvement of related law, public policy and national layout and task plan for HIV/AIDS prevention and cure.*

*Comments and recommendations:*

*Comments and recommendations for chapter 13:*

## *Chapter 14 Supplementary Articles*

### *Article 122 New law prior to old law*

*Administrative law, provincial statute, governmental regulations and other normative document prior to this status that is contradicting with this status shall be no more valid.*

*Comments and recommendations:*

### *Article 123 Time for becoming effective*

*This status shall become effective and be implemented*

*since \_\_\_\_\_month/date/year.*

*Comments and recommendations:*

*Comments and recommendations for chapter 14:*

*Comments and recommendations for the whole draft:*