



S H O R T      R E P O R T



## Restrictions on AIDS NGOs in Asia

December 1, 2009

# **Restrictions on AIDS NGOs in Asia**

Asia Catalyst short report

December 1, 2009

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## SUMMARY

"Government efforts alone are not enough to fight against HIV/AIDS, given the large population of 1.3 billion people, and more NGOs should join in the battle."

*Wang Longde, Minister of Health, China<sup>1</sup>*

"I have asked for more NGOs to cooperate with the government so that together we can try to reduce the prevalence of HIV/Aids."

*Nuth Sokhom, National AIDS Authority, Cambodia<sup>2</sup>*

"[The Vietnamese] Ministry of Health Minister Nguyen Quoc Trieu thanked the NGOs' previous assistance to Vietnam's health sector and called for the organizations' continued support...in preventing...HIV/AIDS..."<sup>3</sup>

Government leaders in even some of Asia's most repressive societies have come to recognize that nongovernmental organizations (NGOs) are critical to the fight against HIV/AIDS. But in practice, and despite the flowery rhetoric of world leaders, many Asian AIDS and harm reduction NGOs are heavily restricted. AIDS and harm reduction NGOs continue to find it difficult to register officially as organizations, face censorship of their periodicals and websites, and even arrest and harassment of staff. Harm reduction workers may face arrest and harassment while conducting outreach to drug users, sex workers and sexual minorities. Three leading AIDS activists are in prison in China and Myanmar. These restrictions hamstring the regional fight against AIDS.

Why are NGOs so critical to fighting the AIDS epidemic? The AIDS virus spreads most quickly among people who are marginalized from society: drug users, sex workers, sexual and ethnic minorities, men who have sex with men, and the urban and rural poor. To reach these communities with life-saving HIV prevention information, treatment, care and support, we need organizations run by people from those communities, and by people they trust. But because some of these populations are engaged in activities that are illegal, and because of the widespread and life-destroying stigma that still surrounds the epidemic, many marginalized people will not come forward to government agencies or large institutions. Small, frontline AIDS and harm reduction NGOs that work within their own communities are essential.

What is more, the on-the-ground experience and analyses of grassroots AIDS NGOs can enrich policy and law. These organizations are best-placed to monitor implementation of national policy and spending of government funds.

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<sup>1</sup> "China encourages NGO participation in fight against AIDS," Xinhua News Agency, March 22, 2006; <http://www.china-aids.org/english/News/News468.htm>.

<sup>2</sup> Khoun Leakhana, "Government Urges HIV/AIDS NGOs to Get Licensed," *Phnom Penh Post*, November 13, 2008; [http://www.ncpd.gov.kh/index.php?option=com\\_content&view=article&id=154%3Agovt-urges-hivaidss-ngos-to-get-licensed&Itemid=58](http://www.ncpd.gov.kh/index.php?option=com_content&view=article&id=154%3Agovt-urges-hivaidss-ngos-to-get-licensed&Itemid=58).

<sup>3</sup> "MoH praises NGO contributions to public health," Vietnam News Agency, October 28, 2009; <http://en.vietnamplus.vn/Home/MoH-praises-NGO-contributions-to-public-health/200910/3747.vnplus>.

This report summarizes restrictions faced by AIDS and harm reduction NGOs in Asia – specifically, in Burma (Myanmar), Cambodia, Vietnam and China. International human rights law guarantees basic rights to health, to freedom of expression and to freedom of association, and these principles are also upheld by UNAIDS standards on health and human rights. Unfortunately these rights are not always respected. While Asian civil society includes India's thriving NGO sector, it also includes the more barren civil society of North Korea. The democracies of island Southeast Asia are more generally tolerant of civil society than is much of mainland Southeast Asia, where NGOs face burdensome restrictions on registration and operation.

This is a rapidly-changing field, and there are positive developments this year. Restrictive Laos has announced it will permit NGO registration for the first time, beginning this month. At the same time, as discussed below, Cambodia is considering a new NGO law that threatens to be restrictive. In countries where the backlash against civil society has been most severe (such as Myanmar or China) there are also ongoing efforts on the ground to stretch the limits of the space. When it comes to AIDS and civil society in Asia, it often seems to be a case of one step back for every two steps forward.

This report groups together organizations working on HIV/AIDS with those working on harm reduction because both are aspects of the same struggle. Harm reduction is a term used to describe a science-based approach that aims to reduce the harm associated with certain activities (injection drug use, sex work), including transmission of HIV and other blood-borne infections. It is most often used here in relation to organizations that provide opioid substitution therapy such as methadone and buprenorphine, clean needles, free condoms and accurate, evidence-based information to drug users and sex workers.

Little information was available for a number of countries, so we have focused on those where information is available and where local activists have raised concerns. We encourage those working on the ground who feel that important information has been omitted to write to us, anonymously if you prefer, for our update in December 2010 at [info@asiacatalyst.org](mailto:info@asiacatalyst.org).

In August 2009, at the International Conference on AIDS in Asia and the Pacific in Bali, a group of AIDS and harm reduction NGOs came together to form the Coalition for Free AIDS NGOs in order to advocate for greater space for AIDS NGOs and activists across Asia. It now includes NGOs in China, Malaysia, Thailand, India, Indonesia, Pakistan and Bangladesh, as well as the U.S. and Cameroon. Organizations interested in joining the coalition should contact us at the above email address.

## Trends to watch:

- While government officials publicly play lip service to the role of civil society in combating AIDS, in practice **registration, publication and advocacy work may be restricted**, effectively preventing NGOs from functioning.
- **Three Asian AIDS activists – Hu Jia, Than Naing, and Wangdue – are currently serving prison sentences for their activism.** AIDS petitioners in China continue to face the threat of detention in “black jails” and criminal charges of extortion in retaliation for their efforts to seek justice and compensation. Health concerns have been raised about both Hu Jia and Than Naing.
- In many parts of the region, domestic NGOs are rarely consulted by the government. **International NGOs are more likely to be permitted to register and more likely to be consulted on policy and law** than are their domestic counterparts.
- The lack of philanthropy or government giving in Asia means that **grassroots AIDS and harm reduction NGOs rely heavily on international donors** for their support. In restrictive countries this makes local NGOs vulnerable to charges of “manipulation by foreign interests”.
- Asian AIDS NGOs tend to be isolated within national borders, but recently there have been ground-breaking **efforts to build AIDS solidarity across national borders in Asia**, e.g. through the formation of the Asian-Pacific Network of People Living with HIV/AIDS (APN+) and branch associations in several countries, the Asia-Pacific Network of Sex Workers (APNSW), and the Asian Network of People Using Drugs (ANPUD).
- AIDS and harm reduction groups that formerly focused only on frontline service provision are expressing a **growing interest in human rights documentation and advocacy skills**, with a growing demand for rights and law training across the region.
- **Access to affordable internet and wireless technology is key** to the ability of small, underfunded AIDS and harm reduction groups to do their work. The innovative use of cell phone photography, text messaging, email listserves, social networking and proxy servers have all enabled grassroots NGOs to link up with more established groups and get life-saving AIDS information to those who need it.

## BURMA (MYANMAR)

Health experts warn that Burma (Myanmar) is facing a large-scale HIV crisis. Myanmar's health ministry puts the number of HIV-positive people at only 40,000.<sup>4</sup> However, the number of adults living with HIV was estimated by WHO in 2007 to be 338,911. In 2004, the estimated number of people on antiretroviral therapy was 1,500.<sup>5</sup>

Myanmar has been under military rule for decades. In Myanmar military's context, there are no legal human rights groups, and only a few independent groups have had space in which to emerge and operate.

It is difficult at best for any local or international organization to obtain permission to operate in Myanmar. The regime aims to minimize the influence of international NGOs out of concerns that they will spark a more broad-based movement of resistance. Such concerns were highlighted in the early days of the so-called "Saffron Revolution".

Though Myanmar has one of the highest rates of HIV prevalence in Asia, fears that aid money could be mishandled have made some international donors reluctant to contribute. After cutting off aid to the regime in 2005, the Global Fund awarded Myanmar a new grant of \$110 million to fight AIDS in 2009.<sup>6</sup> The Three Diseases Fund has filled some of the gap caused by this withdrawal of funding by pledging a total of \$60 million for HIV prevention and care over five years.

*NGO Registration* In early 1990, some international NGOs were permitted to begin to work through government-sponsored organizations.<sup>7</sup> International NGOs in the past have generally entered the country as subcontractors of UNDP, and were required to spend in this marginal status before obtaining memoranda of understanding for their work. In recent years the process of registration and agreement on memoranda of understanding has been slow, but international NGOs that are able to obtain an informal agreement have been allowed to conduct activities while the agreement is in process. After Cyclone Nargis, the presence of international NGOs in Burma increased, though the Saffron Revolution left the state with lasting security concerns.

Domestic NGOs are required to register under the Companies Act 82. Large, national-level organizations work under the leadership of the military, and are expected to remain uncritical of government policy in public. According to International Crisis Group, "Small community groups, such as funeral associations which help poor people cover burial expenses, women's groups, literature and culture groups, sports groups, and religious associations, do not need to

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<sup>4</sup> Aung Zaw, "In Burma, a repressive regime controls the press," *Nieman Reports*, Summer 2002; <http://www.nieman.harvard.edu/reportsitem.aspx?id=101377>.

<sup>5</sup> WHO, *Summary Country Profile for HIV/AIDS Treatment Scale-Up: Myanmar*, December 2005, [http://www.who.int/hiv/HIVCP\\_MMR.pdf](http://www.who.int/hiv/HIVCP_MMR.pdf).

<sup>6</sup> "Global Fund Returns to Myanmar with 110 Million Dollars," *Monsters and Critics*, November 15, 2009. Reposted on HIV Information for Myanmar, [http://him.civilblog.org/blog/\\_archives/2009/11/13/4380762.html](http://him.civilblog.org/blog/_archives/2009/11/13/4380762.html).

<sup>7</sup> *Myanmar: The Role of Civil Society*, International Crisis Group, December 6, 2001; <http://www.crisisgroup.org/home/index.cfm?id=1530&l=1>.

register as long as their activities are local and specific. However, even such activities as cooking food for poorer villagers by ad hoc community groups may be sometimes stopped.”<sup>8</sup>

In August 2009, Myanmar’s health ministry announced that it would require all informal networks of people living with HIV to undergo a laborious registration process and work under the supervision of Prevention and Control Teams for STDs and HIV.<sup>9</sup> Unregistered local NGOs are prohibited from receiving any funds and their leaders are subject to arrest.

Some religious groups and Buddhist temples have been able to provide social welfare programs to children affected by HIV/AIDS and patients in need of hospice care. These are also vulnerable to arbitrary shutdown, as in a recent case in which the military forced a group of AIDS patients receiving free hospice care to leave a temple and relocate to a hospital.<sup>10</sup>

*Censorship* Myanmar censors internet discussion of such issues as HIV/AIDS, human rights, human trafficking, and harm reduction. Myanmar’s health workers point out that failing to utilize the mass media as a weapon to fight against the epidemic will result in many more people contracting the virus.<sup>11</sup>

#### *INDIVIDUAL CASES:*

- **Phyu Phyu Thin**, a long-time HIV/AIDS activist and member of the National League for Democracy, was arrested on May 21, 2007 for organizing a prayer rally to call for the release of detained National Leader Aung San Suu Kyi. She was held for over a month and released without charges on July 2, 2007. Phyu Phyu Thin had been caring for AIDS/HIV patients since 2002, operating in a clinic in Yangon. Her work has included providing patients with counseling, education, sending them to clinics and providing accommodation to those from outlying areas. She has at times been a vocal critic of the State Peace and Development Council, alleging that they have downplayed the large number of AIDS cases.<sup>12</sup> During her detention, eleven AIDS activists who protested her detention were also held for a few days.<sup>13</sup>

According to a blog post by Phyu Phyu Thin in October 2009 about conditions faced by herself and other AIDS activists, “the authorities are always looking at what we do, and sometime they harass us because we are (National League for Democracy) members.”<sup>14</sup>

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<sup>8</sup> International Crisis Group, *Myanmar*, p. 22.

<sup>9</sup> “Myanmar moves to ‘supervise’ PLHIV groups,” *HIV in Asia and the Pacific*, September 15, 2009; <http://hivinasia.blogspot.com/2009/09/myanmar-moves-to-supervise-plhiv.html>.

<sup>10</sup> “AIDS patients forced to leave monastery,” *The Irrawaddy*, November 24, 2009; [http://www.irrawaddy.org/article.php?art\\_id=14974](http://www.irrawaddy.org/article.php?art_id=14974).

<sup>11</sup> Aung Zaw “In Burma a repressive regime controls the press”, *Nieman Reports*. <http://www.nieman.harvard.edu/reportsitem.aspx?id=101377>.

<sup>12</sup> Shah Paung, “World AIDS Day means little in Burma”, *The Irrawaddy*, November 30, 2007; [http://www.irrawaddy.org/article.php?art\\_id=9475](http://www.irrawaddy.org/article.php?art_id=9475).

<sup>13</sup> “Detained Activist Phyu Phyu Thin Released in Myanmar,” *The Irrawaddy*, July 3, 2007. [http://en.wikinews.org/wiki/Detained\\_AIDS\\_activist\\_Phyu\\_Phyu\\_Thin\\_released\\_in\\_Myanmar](http://en.wikinews.org/wiki/Detained_AIDS_activist_Phyu_Phyu_Thin_released_in_Myanmar).

<sup>14</sup> Phyu Phyu Thin, “Defeating HIV/AIDS, Preserving the Future.” *The Irrawaddy*, October 19, 2009; [http://www.irrawaddy.org/opinion\\_story.php?art\\_id=17021](http://www.irrawaddy.org/opinion_story.php?art_id=17021).

- **Than Naing**, a National League for Democracy Youth member and Burmese HIV activist, is currently serving a six-year sentence in Maubin Prison, Irrawaddy Division. Than Naing was arrested in August 2006 along with a group of AIDS activists who were planning to hold a funeral for supporters who had died of HIV/AIDS. In December 2008, his wife reported that Than Naing has HIV, and that due to lack of access to appropriate medical treatment in prison, he has become paralyzed in over half his face.<sup>15</sup>

## CAMBODIA

According to WHO, in 2003, Cambodia had an estimated 123,100 people living with HIV/AIDS, of whom 12,396 were receiving antiretroviral treatment.<sup>16</sup>

In 1991, at the conclusion of Cambodia's civil war, a United Nations peacekeeping force was charged with organizing the election of a new government and administering Cambodia; the peacekeeping force included a role for civil society as it drafted the framework for a new democratic society.<sup>17</sup> Today, Cambodia has a vibrant civil society sector, including active human rights groups such as LICADHO. However, the state has at times cracked down on and harassed individual organizations. In 2005, the Ministry of Interior issued stringent guidelines requiring NGOs to obtain government approval in order to participate in meetings and trainings. These guidelines restrict the freedom of NGOs to operate, sometimes requiring them to travel in order to get authorizations from provincial or municipal governors.<sup>18</sup>

*NGO Registration* This year the Cambodian government, expressing concerns about global terrorism, announced plans to pass a new law to govern its 2,200 NGOs and associations.<sup>19</sup> In the words of Prime Minister Hun Sen, "We have a concern that sometimes under so-and-so NGO, financial assistance has been provided for terrorist activities."<sup>20</sup> The Ministry of Foreign Affairs and the Ministry of Interior are currently studying the draft before it is presented for approval. 200 national and international organizations have released a statement raising concerns about the lack of transparency and consultation in the process of drafting the law.<sup>21</sup> Their concerns have

<sup>15</sup> Maung Dee, "Imprisoned Burmese activist paralyzed", *Mizzima*, April 29, 2008; <http://www.mizzima.com/news/inside-burma/390-imprisoned-burmese-activist-paralyzed.html>.

<sup>16</sup> WHO, *Summary country profile for HIV/AIDS treatment scale-up: Cambodia*, December 2005, [http://www.who.int/hiv/HIVCP\\_KHM.pdf](http://www.who.int/hiv/HIVCP_KHM.pdf).

<sup>17</sup> "Cambodia needs a rights-based NGO law," Asian Human Rights Commission, March 4, 2009; <http://www.ahrchk.net/statements/mainfile.php/2009statements/1920/>.

<sup>18</sup> AHRC, "Cambodia needs a rights-based NGO law."

<sup>19</sup> Duong Sokha, "NGO Law in Cambodia: top issue on government's agenda, the civil society in jeopardy?" *Ka-Set, information website on Cambodia*, December 8, 2008; [http://cambodia.ka-set.info/index2.php?option=com\\_content&do\\_pdf=1&id=98](http://cambodia.ka-set.info/index2.php?option=com_content&do_pdf=1&id=98)

<sup>20</sup> AHRC, "Cambodia needs a rights-based NGO law."

<sup>21</sup> Forum Asia, "Cambodia – Government shows no detail of law to control NGOs," September 17, 2009; [http://docs.google.com/viewer?a=v&q=cache:aSc\\_veuiM0UJ:www.forum-asia.org/index2.php%3Foption%3Dcom\\_content%26do\\_pdf%3D1%26id%3D2321+200+NGOs+Cambodia+law&hl=en&gl=us&pid=bl&srcid=ADGEESgPmRE-7nwHluGFxODDIIXsNeGw0tsWOobp\\_xlnZZMfxfc2cFBKGgk3W-oye10DRI7k5-](http://docs.google.com/viewer?a=v&q=cache:aSc_veuiM0UJ:www.forum-asia.org/index2.php%3Foption%3Dcom_content%26do_pdf%3D1%26id%3D2321+200+NGOs+Cambodia+law&hl=en&gl=us&pid=bl&srcid=ADGEESgPmRE-7nwHluGFxODDIIXsNeGw0tsWOobp_xlnZZMfxfc2cFBKGgk3W-oye10DRI7k5-)

focused on new restrictions on funding that would channel funds through corrupt government agencies, empowering the government to siphon off funds and exercise financial control over NGOs critical of government policy.<sup>22</sup>

*Media Coverage* The International Federation of Journalists' report on media coverage of HIV/AIDS found little reporting on HIV/AIDS in Cambodia. Even on World AIDS Day, stories mentioning HIV/AIDS accounted for less than 3% of total news stories. Some NGOs alleged that journalists ask for bribes in exchange for publishing stories on their work.<sup>23</sup>

#### *INDIVIDUAL CASES & INCIDENTS:*

- **Korsang:** Korsang, a harm reduction NGO based in Phnom Penh, has faced numerous forms of harassment over the years, including frequent eviction from its facilities by the police. In June 2008, a staffperson conducting harm reduction outreach was arrested and detained for five days without charges. In September 2009, Korsang raised concerns about its survival after some community members at a public forum expressed opposition to a drop-in center for drug users. According to Korsang, UN agencies and international donors present at the meeting have failed to speak out in support of their program.

## CHINA

There are 740,000 people living with HIV/AIDS in China according to government statistics, though Chinese doctors and AIDS NGOs suggest the true number is probably much higher. China AIDS Info's directory of the best-known AIDS NGOs currently working in China numbers about 127, but many others are unlisted – and probably, unregistered.<sup>24</sup>

China's civil society has experienced explosive growth in the past decade, with dozens of new, independent NGOs emerging to work on such issues as HIV/AIDS. However, NGOs remain marginalized and in many cases operate without legal registration. Censorship is arbitrary, including periodic blocking of sites deemed "pornographic" (which can include sites with frank information on HIV/AIDS), and on legal or rights issues. Outspoken individual AIDS activists, especially rural petitioners, face the risk of imprisonment.

However, Chinese AIDS activists have become highly adept at getting information out to the international community. The higher number of cases listed here does not necessarily indicate that China is more restrictive than other countries, but could simply be because more information is available.

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<sup>22</sup> Duong Sokha, "NGO law in Cambodia."

<sup>23</sup> International Federation of Journalists, *HIV/AIDS Media Guide: IFJ media guide and research report on the media's reporting of HIV/AIDS*, 2006; <http://www.ifj.org/assets/docs/117/252/83d8475-9cb28fc.pdf>.

<sup>24</sup> China AIDS Info, *2005 China HIV/AIDS Directory*, <http://www.chinaaids.org/english/China%20AIDS%20Directory%202005.pdf>.  
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*NGO Registration* According to official statistics, over 300,000 NGOs are registered, but most of these are actually ‘government-organized NGOs’ or GONGOs.<sup>25</sup> The Chinese government applies burdensome requirements to groups attempting to register as NGOs. These groups must find a government agency sponsor before they can register with the Ministry of Civil Affairs. This can be difficult, as ministries may not want to be associated with a group that is likely to criticize state policy. In addition, both sponsoring agencies and the Ministry of Civil Affairs can refuse applications anytime and without cause or recourse. The Chinese government has repeatedly stated over the past several years that it is reviewing this policy and that some restrictions on international NGOs may be lifted in the future, but no target date has been set.<sup>26</sup>

Under the circumstances, many NGOs do not register at all, or register as commercial enterprises. This imposes a requirement to pay taxes (challenging if the NGO is supported by an international foundation, which can only give to tax-exempt organizations), and places the NGO in a legal gray area where they are vulnerable to shutdown. In Yunnan province, according to local NGOs, some health bureaus try to exercise financial control as well by requiring local AIDS NGOs to pay 1/3 of their income as a fee to the health bureau.

In the wake of the “Color Revolutions” in Central Asia, Chinese authorities began to show concern about the role of international NGOs and of donors (such as the National Endowment for Democracy) in supporting AIDS NGOs. The state established a task force to monitor the activities of NGOs, especially those supported from overseas.<sup>27</sup> Some AIDS NGOs that receive international funding are required to report on their activities to national security agents.

#### *INDIVIDUAL CASES & INCIDENTS:*

- **Hu Jia:** On December 27, 2007, Hu Jia was detained and subsequently sentenced to three and a half years for ‘inciting subversion of state power’. Hu Jia was a former director of the Beijing Aizhixing Institute of Health Education and co-founder of Loving Source, a grassroots organization dedicated to helping children affected by AIDS.<sup>28</sup> His wife has repeatedly raised concerns about his access to health care, as Hu Jia has hepatitis B and suffers from liver cirrhosis.<sup>29</sup>

Hu Jia’s verdict was “a punishment for [his] public critiques of human rights violations in China and a warning to any other activists in China who dare to raise human rights concerns publicly,” according to Amnesty International.<sup>30</sup> On March 5, 2008, Beijing Aizhixing Institute was warned to remove information about Hu Jia from its website, and

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<sup>25</sup> Freedom House, *Freedom of association under threat: The new authoritarians' offensive against civil society*, November 13, 2008; <http://www.freedomhouse.org/template.cfm?page=384&key=148&parent=13&report=74>.

<sup>26</sup> Freedom House, *Freedom of association under threat*.

<sup>27</sup> Barry F. Lowenkron, “US State Department: The role of NGOs in the development of democracy” (Remarks to the Senate Foreign Relations Committee ), June 8, 2006, Washington, DC.

<sup>28</sup> “Hu Jia jailed for three and a half years,” Amnesty International, April 4, 2008; <http://www.amnesty.org/en/news-and-updates/news/chinese-activist-gets-jail-sentence-20080403>.

<sup>29</sup> “China: Release jailed rights activist Hu Jia,” Human Rights Watch, October 2, 2008; [http://china.hrw.org/press/news\\_release/china\\_release\\_jailed\\_rights\\_activist\\_hu\\_jia](http://china.hrw.org/press/news_release/china_release_jailed_rights_activist_hu_jia).

<sup>30</sup> “Hu Jia jailed,” Amnesty International.

the site was intermittently shut down. Zeng Jinyan, activist and wife of Hu Jia, has also been repeatedly placed under house arrest during state visits and “sensitive periods” such as the Olympics. In March 2008, several AIDS activists reported to Asia Catalyst that they were contacted by the police and warned not to speak about Hu Jia’s case during the Beijing Olympics.

In 2008, Hu Jia won Europe’s highest human rights honor, the Sakharov Prize for Freedom of Thought.<sup>31</sup> He has also been nominated for the Nobel Peace Prize.<sup>32</sup>

- **Wangdue:** On March 14, 2008, Wangdue, an HIV/AIDS activist from Tibet, was arrested by Lhasa City Public Security Bureau officials at his residence. His family was not notified of his whereabouts or the charges against him. In December 2008 he was given a life sentence for “providing intelligence” to “the Dalai clique”, charges stemming from emails he had sent to international nonprofits about protests he had witnessed. Wangdue formerly worked with the Burnet Institute, an Australian NGO, on HIV/AIDS outreach to sex workers and promoting AIDS information in Chinese and Tibetan in Lhasa.<sup>33</sup>
- **Rural AIDS Petitioners:** In China, the government permits individuals who feel their rights have been violated to “petition”, or submit letters to higher-level authorities requesting an investigation. The system parallels the legal system, and has frequently been utilized by rural people who either lack access to lawyers or who lack faith that China’s legal system will give them access to justice. Many petitioners are jailed, threatened and beaten by officials from the home governments of the petitioners, in an attempt to prevent higher-level officials from becoming aware of their cases. Many are held incommunicado in secret “black jails.”<sup>34</sup> These include petitioners from Henan, Hebei and elsewhere calling for compensation for transmission of HIV through the hospital blood supply and through blood sales.

In a 2008 report, Beijing Aizhixing Institute interviewed 142 AIDS petitioners and found that almost all were petitioning about cases involving blood transmission of HIV.<sup>35</sup> Of these, 36.8 percent had attempted to file suit in court and had been refused by the courts.<sup>36</sup> In November 2009, AIDS activist **Tian Xi** and two Henan AIDS petitioners

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<sup>31</sup> “Sakharov prize 2008 awarded to Hu Jia,” European Parliament, October 23, 2008; [http://www.europarl.europa.eu/news/public/story\\_page/015-39965-294-10-43-902-20081020STO39964-2008-20-10-2008/default\\_en.htm](http://www.europarl.europa.eu/news/public/story_page/015-39965-294-10-43-902-20081020STO39964-2008-20-10-2008/default_en.htm).

<sup>32</sup> Gwladys Fouche, “Chinese dissident tipped to win Nobel peace prize,” *Guardian*, September 24, 2008; <http://www.guardian.co.uk/world/2008/sep/24/nobelpeaceprize.huji>.

<sup>33</sup> International Campaign for Tibet, “NGO worker sentenced to life imprisonment,” December 22, 2008, <http://www.savetibet.org/media-center/ict-news-reports/ngo-worker-sentenced-life-imprisonment-harsh-sentences-signal-harder-line-blocking-news-ti>; Tibetan Centre for Human Rights and Democracy, ‘A Tibetan AIDS activist disappears in Tibet’ Human Rights Update (2008), [http://www.tchrd.org/publications/hr\\_updates/2008/hr200810.pdf](http://www.tchrd.org/publications/hr_updates/2008/hr200810.pdf).

<sup>34</sup> “China: Secret ‘black jails’ hide severe rights abuses,” Human Rights Watch, November 11, 2009; <http://www.hrw.org/en/news/2009/11/02/china-secret-black-jails-hide-severe-rights-abuses>.

<sup>35</sup> Beijing Aizhixing Yanjiusuo, *Aizibing: Ganranzhe shangfang diaocha*, July 2008.

<sup>36</sup> Beijing Aizhixing Yanjiusuo, *Aizibing*, p. 12.

unfurled a banner at the Ministry of Health demanding compensation for hospital transmission of the AIDS virus; they were detained in “black jails” and sent home. On November 24, 2009, thirty petitioners from several provinces, including several HIV-positive children, protested in front of the Ministry of Health in Beijing.<sup>37</sup> In August 2009, Henan AIDS petitioners **Zhao Fengxia** and **Cao Lanying** were arrested for petitioning in Beijing and charged with extortion. Both were given two-year sentences, suspended for three years.<sup>38</sup> On August 12, 2008, AIDS petitioner **Wang Xiaoqiao** was convicted on extortion charges because of her demands for compensation for blood transmission of HIV. She was sentenced to one year in prison.<sup>39</sup>

- **Urine testing:** Organizations working with drug users report that individuals may be stopped at any time by police and forced to undergo urine testing. In September 2009, IDU activist **Wang Wen** sued the government of Kunming City police for seizing him in a hotel and compelling him to take a urine test.<sup>40</sup> Drug user activists in Yunnan province reported to Asia Catalyst that a meeting of drug user NGOs in late 2008 was interrupted by police, who compelled all participants to undergo urine testing.
- **International travel restrictions:** Some activists faced travel restrictions in advance of China’s 60<sup>th</sup> anniversary celebration of National Day. A Chinese AIDS advocate who was invited by UNAIDS to participate in the ICAAP conference had his passport seized by the police and was not able to travel to Indonesia. Police had warned the activist that if spoke to international organizations and media, he would “face the same fate as Hu Jia”. At about the same time, another health rights activist told Asia Catalyst he had been prevented from traveling to an international conference where he was to receive an award.
- **Beijing Olympics:** In the run-up to the 2008 Beijing Olympics, numerous AIDS and health rights activists reported harassment, threats and orders by police to “go on vacation” somewhere outside of Beijing for the duration of the games. [For more information, please see Asia Catalyst’s submission to the UN Special Rapporteur on the Right to Health, <http://www.asiacatalyst.org/news/>.]

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<sup>37</sup> Asia Catalyst communication with Chinese AIDS activist, November 25, 2009.

<sup>38</sup> For more on the case of Ms. Zhao and Ms. Cao, please see Asia Catalyst’s submission to the UN Special Rapporteur on the Right to Health at [www.asiacatalyst.org/news/](http://www.asiacatalyst.org/news/).

<sup>39</sup> Annual report on the situation of human rights defenders in China (2008), Chinese Rights Defenders, June 26, 2009; [http://crd-net.org/Article/Class9/Class10/200906/20090626173554\\_16023.html](http://crd-net.org/Article/Class9/Class10/200906/20090626173554_16023.html).

<sup>40</sup> Press release, “Former Drug User Files Suit Against Kunming Public Security Bureau for Arbitrary Urine Test” [Chinese], September 14, 2009.

## VIETNAM

The Vietnamese health ministry reports that there are 132,628 cases of people living with HIV/AIDS in Vietnam and that 28% of adults are receiving antiretroviral treatment.<sup>41</sup>

*NGO Registration* The civil society sector in Vietnam is dominated by “mass organizations” such as the Vietnam Women’s Union.<sup>42</sup> International NGOs such as PACT, Family Health International also have a strong presence in Vietnam. In order to register, NGOs must meet a minimum standard for size of membership and must be government-approved or associated with one of the state-controlled mass organizations. NGOs operating at national and inter-provincial level must register with the Department for Non-Governmental Organizations at the Ministry of Home Affairs, while NGOs operating at a provincial level must register with the Provincial Department of the Ministry of Home Affairs. In addition, the government has the power to dissolve NGOs in various circumstances.<sup>43</sup>

Despite these restrictions, community groups do exist in rural areas, where they provide direct services to vulnerable groups. People living with HIV/AIDS have come together to form about 200 support groups in two national networks: the Vietnamese Positive Women’s Network, and the Vietnam Network of People Living with HIV (VNP+).<sup>44</sup> Both organizations are still unregistered, affecting their ability to receive funds from international donors such as the Global Fund. Since both drug use and sex work are considered “social evils”, organizations of sex workers and drug users are also illegal.

Academic and religious organizations have been active in pressing for greater space for NGOs.<sup>45</sup> Mass organizations may have input into national policy, but community groups generally do not. Professional associations have sometimes been allowed to comment on draft laws.<sup>46</sup>

*Censorship* Vietnamese authorities closely monitor and often censor media and the internet. While the use of the internet is increasing, the state maintains tight control. A 2003 law bans the receipt and distribution of anti-governmental email messages, websites considered critical and ‘reactionary’ (ranging from Voice of America and Human Rights to, more recently, Facebook) are blocked, and those owning domestic websites must submit their content for official approval.<sup>47</sup> International press and cable TV are available in major cities, but are censored by the central government.

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<sup>41</sup> Socialist Republic of Vietnam, *Third Country Report on Following Up the Implementation to the Declaration of Commitment on HIV/AIDS*, January 2008, [http://data.unaids.org/pub/Report/2008/viet\\_nam\\_2008\\_country\\_progress\\_report\\_en.pdf](http://data.unaids.org/pub/Report/2008/viet_nam_2008_country_progress_report_en.pdf).

<sup>42</sup> Irene Norlund, ed., *The emerging civil society, an initial assessment of civil society in Vietnam*, March 2006, [http://www.civicus.org/media/CSI\\_Vietnam\\_Country\\_Report.pdf](http://www.civicus.org/media/CSI_Vietnam_Country_Report.pdf).

<sup>43</sup> NGO regulation Network, “Summary of the regulatory system in Vietnam” <http://www.ngoregnet.org/>

<sup>44</sup> USAID, “Where We Work: Vietnam,”

<http://www.healthpolicyinitiative.com/index.cfm?id=wherework&RegionCode=ANE&CountryCode=VT>.

<sup>45</sup> JB Vu, “Vietnam must promote social work and social workers,” *Asia News*, November 13, 2009; <http://www.asianews.it/index.php?l=en&art=16862&size=A>.

<sup>46</sup> Irene Norlund, *The emerging civil society*, p. 13.

<sup>47</sup> “Country Report: Vietnam (2009)”, Freedom House, 2009 edition;

<http://www.freedomhouse.org/template.cfm?page=22&year=2009&country=7734>.

## POLICY RECOMMENDATIONS

- Immediately free imprisoned AIDS activists Hu Jia, Thain Naing and Wangdue without charges.
- All countries should revise national regulations to remove burdensome restrictions that limit the registration and growth of AIDS NGOs, and bring these laws into compliance with international laws on freedom of association.
- All countries should bring national and local laws on the internet into compliance with their commitments under international law to respect free expression.
- All countries should invite grassroots AIDS organizations to share their input on policy and legal reform, and encourage them to monitor implementation of programs relevant to their organizational mandates.
- China, Myanmar and Vietnam should reform laws on NGO registration to permit registration of domestic NGOs and support groups for people living with HIV without requiring their sponsorship by other agencies.
- China should cease the policy of arbitrary urine testing of current or former drug users.
- China should allow people infected with HIV through hospital blood transmission to file suit in court.
- Cambodia should ensure public participation and complete transparency in drafting its laws on NGO registration and management. New laws should permit donors to fund NGOs directly without channeling funds through a government agency.
- Myanmar should utilize the media to reach the broader public with essential information on HIV/AIDS prevention.
- International donors and governments should establish small grants programs to directly fund small, independent NGOs working on HIV/AIDS and harm reduction.
- Bearing in mind that human rights protection is part of the mandate of the United Nations, UNAIDS and UN agencies should establish clear guidelines for country directors on how they are expected to handle human rights cases. UNAIDS and international donors must speak out when individual AIDS activists are imprisoned, and should publicly *and* privately advocate for AIDS and harm reduction NGOs when they are shut down or threatened.
- UNAIDS should begin requiring countries to report on status and participation of independent NGOs in their national AIDS work, and consultation by government with domestic NGOs on policy and legal matters.
- UNAIDS in Bangkok should convene a regional meeting on AIDS and human rights in Asia, incorporating government representatives, academic experts, and NGOs.
- International donors should provide greater funding for capacity-building of NGOs in Asia.
- International NGOs that are invited to consult with Asian governments on AIDS policy and law should insist on including domestic counterparts in those discussions.

## ABOUT ASIA CATALYST

We are grateful to an anonymous colleague who shared the cover photograph of red ribbon graffiti in Laos, and to Holly Bradford, Mauro Guarinieri and an anonymous reviewer for suggestions.

Asia Catalyst partners with activists in Asia to inspire, create and launch innovative, self-sustaining programs and organizations that advance human rights, social justice and environmental protection. For more information, please see [www.asiacatalyst.org](http://www.asiacatalyst.org).