

HIV, Health and Development

United Nations Development Programme Asia-Pacific Regional Centre



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Innovative Approaches - UN in Viet Nam

2011

Delivering as One: HIV and the Law in Viet Nam

Key features of this novel HIV programming and partnership-building initiative:

- Flexible, policy-driven (not project-driven) coordination of UN agency work on HIV and the law, leading to a clearer UN message being heard more widely
- Leverage the UNDP policy advisory unit's comparative advantage and UNAIDS' technical expertise and access to key populations and partnerships to exploit synergies and increase impact for duty bearers and rights holders
- Expand partnership networks reaching from policy-makers down to grassroots, leading to greater citizen participation in law and policy-making

Country	Viet Nam
Focus area	HIV and the law, access to justice
Audience	National and local government officials, local community members, community groups
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Background - Delivering as One in Viet Nam

Legal empowerment and law reform is an essential aspect of a strategic HIV response, as demonstrated by the ongoing work of the Global Commission on HIV and the Law. In Viet Nam it is also a key dimension of the UN's engagement on HIV, implemented under flexible cooperation arrangements between UNDP and UNAIDS, using a combination of project and non-project interventions to maximize the strengths of and synergies between both organizations.

Since 2007, Viet Nam has been one of the eight pilot countries for the Delivering as One (DaO) initiative, under which all UN agencies and organizations join together under one leader (the UN Resident Coordinator), one voice, one plan and one budget (the One Plan Fund) and one set of management practices.

The 'One UN Initiative' brings together the expertise, experience and capacities of the UN agencies in Viet Nam to provide more coordinated and effective assistance. Through greater harmonization of its work and alignment with Viet Nam's development priorities, the UN is achieving more coherence, better results and greater impact – for the benefit of all people in Viet Nam.

- Pratibha Mehta, UN Resident Coordinator in Viet Nam

DaO is intended to improve the division of labour and coordination within the UN, with agencies and organizations specializing in their areas of comparative advantage and working together to meet the strategic priorities of their agencies in partnership and without unnecessary duplication. Within their respective comparative advantage, convening agencies are expected to act as a resource, identify opportunities for collaboration and contribute to UN as a whole.

HIV and the Law Under DaO in Viet Nam

Following the introduction of DaO in Viet Nam, UNAIDS was identified as the convening UN organization on HIV, while UNDP agreed to convene on governance, including rule of law and access to justice. In line with

this approach, in 2007, UNDP established a policy advisory capacity including full-time international and national policy advisors on governance issues.

The Policy Advisory Team is a core part of our strategy to move upstream to deliver evidence-based policy advisory services. It has also helped us play our role under the One UN initiative to act as a resource to the whole UN system to strengthen the UN's policy advice to Government and civil society on issues such as rule of law and access to justice. In this way, the UN Country Team brings expertise to bear on the legal and governance aspects of all its programmatic priorities, without requiring each agency to invest in dedicated legal capacity"

- Setsuko Yamazaki, UNDP Country Director in Viet Nam

Joint UN programming on HIV and the law provides a good example of the DaO approach in practice.

The HIV epidemic in Viet Nam is concentrated in key populations at higher risk of infection, particularly people who inject drugs, men who have sex with men (MSM), sex workers and their clients, as well as the spouses and intimate partners of these people. The Government of Viet Nam and international donors have invested heavily in the scale up of HIV prevention and treatment services, but uptake of these services is constrained by high levels of stigma and discrimination surrounding HIV and the behaviours that put individuals at risk of infection. For example, more than 60 percent of people living with HIV (PLHIV) in Viet Nam are in an advanced stage of illness when they initiate anti-retroviral therapy, despite the fact that they are eligible for treatment much earlier in the progression of the infection. By this late stage, they may have been unwittingly spreading the virus for years, and serious opportunistic illnesses have set in.

The 2006 Law on HIV/AIDS Prevention and Control provides strong protection for the rights of PLHIV. These rights include: the right to live as an integrated member of the community; the right to enjoy medical treatment and health care; the right to be educated and work; and the right to privacy and confidentiality. Furthermore, Viet Nam is a party to many international human rights treaties and other international rights instruments. However, the implementation of the law has been limited: (a) there is a lack of awareness and understanding on the part of both rights holders and duty bearers; (b) mechanisms to uphold the law and protect the rights of PLHIV are newly established and require significant strengthening; and (c) efforts to provide HIV services to high-risk populations are significantly constrained by

enforcement of administrative law that includes lengthy detention of sex workers and people who use drugs in “medical treatment establishments and rehabilitation centres”.

To educate people living with HIV on their rights under Vietnamese and international laws, UNAIDS partnered in 2010 with a local NGO, the Institute for Research on Policy, Law and Development, which was already working with UNDP to help law universities across the country to establish student law clinics to work with local communities raising legal awareness and giving legal advice. This project brought mutual benefits to the work of both UNDP and UNAIDS.

with or affected by HIV (including female sex workers and female partners of men who inject drugs), and to educate 75 women living with or affected by HIV on their rights under the law on HIV. In addition, this ground-breaking initiative enabled those trained to make the best use of the legal protections that are available under the Vietnamese legal framework (legal aid provincial centres, legal aid clinics, etc.) to get information, legal advice and representation if needed. The training also supported women to acquire life skills needed to protect themselves from abuse such as decision making, communication or engaging in dialogue on matters such as discrimination at work, confidentiality and access to health services, etc.

From UNDP’s perspective, it enabled a deeper engagement with the university law clinic network to develop their skills through a ‘learning by doing approach’. From UNAIDS’ perspective, the law clinics provided a new channel for delivering awareness-raising and legal assistance services nationwide.

*- Eamonn Murphy, UNAIDS Country Director
in Viet Nam*

The ‘Know Your Rights’ manual is a powerful tool that can be adapted for different target groups – women living with HIV, key populations at higher risk of infection, and other rights holders; as well as duty bearers such as the police, healthcare workers and legal aid providers.

*- Dr. Hoang Ngoc Giao, Director of the Institute for
Research on Policy, Law and Development*

The project supported law schools across Viet Nam (in the main cities of Hanoi and Ho Chi Minh City but also in smaller cities such as Hue, Vinh and Can Tho) to develop a ‘Learn About Your Rights’ training manual, and to pilot-test it through community law teaching initiatives. A core group of 12 active and committed trainers was established. The team included PLD staff, law professors, law students, PLHIV and staff from legal centres supporting PLHIV. Students who took part in developing the manual would travel with the team to other universities to act as trainers. About 470 people - including PLHIV, law lecturers, law students, representatives from legal aid offices and local stakeholders - were trained, resulting in strengthened knowledge among rights holders and duty bearers on PLHIV’s rights and the existing mechanisms to protect PLHIV’s rights under the Vietnamese legal framework. In addition, the resulting manual has now become part of the regular curriculum for the law clinics in all law schools, ensuring sustainability.

2010-2011: Know Your Rights

In late 2010, UNDP and UNAIDS worked together to apply successfully for a UNDP Democratic Governance Thematic Trust Fund (DG TTF) grant of US\$10,000 to carry out a ‘Know Your Rights’ on HIV initiative in Viet Nam. Under this initiative, the Institute for Policy Law and Development was supported to develop a complementary training material for women living

2010-2012: Reforming administrative detention

In Viet Nam, the Government currently detains people who use drugs and sex workers in ‘rehabilitation centres’ using administrative powers. In 2010 the UN Country Team in Viet Nam developed a common position on these centres, which is kept updated periodically, noting their ineffectiveness in treating drug addiction, the lack of due process safeguards, inadequate access to health care in the centres, and the effect of the centres in discouraging people who use drugs and sex workers from accessing community based health services, thus limiting the effectiveness of the national response to HIV.

Currently Viet Nam is revising the legal framework for these measures, providing an opportunity for the UN to engage, advocating the UN’s common position, bringing foreign experts to Viet Nam to discuss international best practices, and facilitating dialogue between the Law Drafting Committee and civil society representatives, which ensured that their voices are heard by policymakers.

Now that the law is before the National Assembly for review, the UN has coordinated with Vietnamese experts from NGOs and academic institutions in Viet Nam to support key parliamentary committees (such as the Law Committee and Social Affairs Committee) and provide evidence-based advocacy on the negative impacts of the current system of administrative

detention on PLHIV and key populations at higher risk of infection. UNDP has been proactive in building a 'One UN' approach to this engagement with the government and National Assembly, helping to build a consistent and coordinated strategy under which many agencies (including UNDP, UNODC, UNICEF, WHO, UNFPA and UNAIDS) speak to multiple partners with a single message. The resulting draft legislation includes many improvements, such as the abolition of detention for sex workers and the introduction of due process for all cases of administrative detention.

2011-2012 – Strengthening legal advice services for PLHIV

In 2011, UNDP and UNAIDS again collaborated in securing UNDP HIVTTF (US\$70,000) funding for a further project, building on the 'Know Your Rights' project as well as implementing key recommendations of the Asia Pacific Regional Dialogue of the Global Commission on HIV and the Law in Viet Nam. The new project has three components:

- An **assessment of legal aid services for PLHIV in Viet Nam**, to better understand the kinds of services needed and offered (information, referral, advice, representation), including the most frequent rights violations encountered by PLHIV; the remedies commonly used to resolve those violations; and obstacles to effectively access them.
- **Building on the key findings and recommendations** from the assessment, capacity enhancement of the legal community in order to increase the quality of the legal aid services delivered.
- Use of the 'Learn About Your Rights' training manual to **promote legal literacy and reduction of stigma** against PLHIV and MSM among key duty bearers (health service providers, provincial leaders, the police, etc.).

Advantages of the One UN Approach

- Each agency **focuses on comparative advantage** while contributing to global programmatic goals, avoiding fragmented or overlapping programming. For instance, while UNDP has no HIV programming of its own in Viet Nam, it is able to ensure that the global priorities of the Global Commission on HIV and the Law are addressed in the country by working with UNAIDS and other agencies to develop effective programming on law reform and legal empowerment of PLHIV. At the same time, UNAIDS can ensure that access to justice dimensions and other critical enablers are fully reflected in its work. In this way, technical expertise within each agency is deployed strategically to benefit the UN as a whole.

- **Stronger partnership networks:** UNDP's rule of law and justice programme has developed strong networks with partners such as the Ministry of Justice, legal advice centres, student law clinics, and the National Assembly (parliament). UNAIDS has strong partnerships with the Viet Nam Authority for HIV/AIDS Prevention and Control (VAAC), the Ministry of Labour, Invalids and Social Affairs, and civil society organizations working in the HIV and AIDS field and self-help groups of PLHIV. Working together, each agency has access to a wider range of partnerships, from central policy-makers down to the grassroots, while delivering a clear and coherent message to each, and the UN can use its convening power more effectively over a broader reach of stakeholders.

- **Flexibility without bureaucracy:** Within the Delivering as One pilot, UN agencies can come together quickly to deliver coherent multi-sectoral policy advice.

- **A clearer channel for policy advice:** the combined effect of these advantages is that the UN in Viet Nam draws on a stronger pool of specialized expertise in a better-coordinated way to deliver a more coherent message to a wider set of stakeholders. As a result, the UN in Viet Nam delivers better policy advice, more effectively and flexibly.

Replicating the Model Elsewhere

Although the 'One UN' principles underlying the DaO initiative provided a valuable impetus to develop the new approach and to ensure the cooperation of all UN agencies, the same approach can be successfully adopted in other country contexts. In fact, the approach has been based entirely on recognition among UN agencies of the synergies of cooperation focused on an agreed division of labour based on comparative advantage and in-country capacities. Another key factor was UNDP's initiative to recruit a Rule of Law and Access to Justice policy advisor and make that advisor available as a resource to other UN organizations. If UNDP's legal expertise had been programmed or 'locked' inside specific nationally-executed projects, directly answerable to a government agency rather than to UNDP, it would have been more difficult to develop this flexible approach successfully.

We believe that the lessons learned in Viet Nam are valuable for all country offices, irrespective of the future course of DaO as a whole. UNDP, and the UN more generally, are strategically moving upstream to focus on policy advice, especially in middle-income countries where donor support has moved beyond basic infrastructure and technical capacity-building and where bilateral donors are withdrawing. Therefore, the

UN's role in policy support becomes even more critical.

Traditional project frameworks (multi-year, one implementing partner, fixed budget, fixed objectives) are challenging vehicles for policy advocacy. Relationships with different counterparts need to be strategically leveraged under the architecture of an overall cross-agency vision for policy engagement. And to support that architecture, policy advisory expertise placed in country offices and support from regional services centres in key areas (including governance, health and HIV) can play a key role in identifying emerging opportunities, drawing together the strands of an effective policy analysis, catalyzing a successful multi-



sectoral strategy for engagement, and monitoring its progress with the flexibility to adapt the approach to changing contexts.

Lessons Learned

The UN's experience in Viet Nam suggests that successful advocacy for policy change requires:

- Flexible engagement with different stakeholders (government agencies, at central and local levels, parliament, academia, civil society) who may have different roles in influencing policy, and different incentives to support change;
- Flexibility to react to changes (whether positive or negative) in the political environment, to follow emerging opportunities and shift strategic responses accordingly;
- A multi-sectoral approach that addresses the different dimensions of policy change across different sectors and that monitors at an overall level how developments in particular sectors may impact the overall environment for policy change.

For More Information on HIV and Access to Justice Programming in Viet Nam Please Contact:

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