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POLICY BRIEF

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THE ROLE OF CIVIL SOCIETY ORGANIZATIONS IN VIETNAM'S HIV/AIDS RESPONSE

The role of civil society organizations (CSOs) in Vietnam's HIV/AIDS response is in transition. CSOs have demonstrated increasing capacity but several critical barriers must be overcome to enable a central role for CSOs in an era of sharply declining international donor support. A growing array of CSOs are delivering valuable HIV prevention services and care and support to people living with HIV/AIDS (PLHA) and their families[1].

The valuable role CSOs can play in the HIV/AIDS response has been affirmed in Global Fund Round 9, signed in January 2011, which represents the first time in Vietnam that CSOs have a formal role in a Global Fund project, or indeed in any HIV/AIDS project that also involves government agencies. Global Fund Round 9 will provide substantial resources for CSO strengthening, expanding CSO activities and improving the enabling environment for an expanded CSO role. The Vietnam Administration for HIV/AIDS Control (VAAC), with support from USAID through Pathfinder International, is developing a "Public/Private Partnerships Stewardship Plan for HIV/AIDS, 2011-2015" that envisions a major role for CSOs as well as private health care providers, businesses, and other private-sector entities.

CSOs have important and unique strengths:

- Dedication and commitment to serve their constituencies and the larger community;
- Demonstrated ability to represent most at risk populations (MARPs), PLHA, and other vulnerable groups and to demand from the government recognition of and attention to their needs;
- Access to and trust from affected populations;
- Expertise in designing and implementing responsive interventions for HIV/AIDS prevention, treatment, and care and support;
- Ability to draw community resources to those interventions; and
- Potential to deliver highly cost-effective and sustainable services and programs so as to become full-fledged components of Vietnam's health care delivery system.

Despite these promising developments, serious obstacles remain to CSOs assuming their rightful places in Vietnam's HIV/AIDS response. These include the following: the limited organizational capability, stability, and accountability of many CSOs; legal barriers and lack of a clear and consistent legal framework governing CSOs and their legal registration; and continuing resistance from the government to an expanded role for CSOs. Overcoming these barriers and equipping CSOs to play their legitimately vital roles represent key challenges and opportunities for Vietnam, not only in HIV/AIDS but also in other development realms. The importance of CSOs' contributions, which can be instrumental in assisting the government to achieve its overall development goals, will increase as Vietnam enters the era of reduced donor funding.

USAID's Health Policy Initiative Vietnam (USAID/HPI) has as one of its key results to develop, strengthen, and support effective public sector and civil society advocates and networks to assume leadership in the policy process. To achieve this, USAID/HPI is working in collaboration with USAID's Pathways for Participation project (Pathways), Global Fund projects and other stakeholders in Vietnam to support and facilitate CSOs' expanded roles in Vietnam's HIV/AIDS response.

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CURRENT STATUS OF CSOS WORKING IN HIV/AIDS

Table 1 summarizes the current landscape of CSO involvement in HIV/AIDS work in Vietnam. This shows that there are a variety of organizations with different compositions, constituencies, capabilities and legal statuses. Voluntary organizations, particularly faith-based and peer education and support groups, have made significant contributions to the HIV/AIDS response without outside funding or legal registration. The voluntary sector should be encouraged to continue and expand its activities and services. However, if CSOs are to become important components of the professional health care delivery system, their staff must receive pay and benefits commensurate with that role.

Type	Estimated numbers	Funding sources	Main activities
Registered local NGOs	30	International donors, INGOs, foundations, their own businesses, other local NGOs, corporate donors	HIV/AIDS prevention, treatment, care and support; research; monitoring and evaluation; training; policy advocacy
Registered* "grass roots" groups-mainly PLHA groups	13 (including one national network)	International donors, INGOs, foundations; their own businesses	HIV/AIDS prevention, care and support; research; training; policy advocacy
Networks	2 national (VCSPA, VNP+); 4 regional	International donors, INGOs, foundations; their own businesses	Policy advocacy; training, networking
Unregistered "grass roots" groups	~200 PLHA groups; 7 IDU groups; 1 SW group; 15 MSM groups; groups of sexual partners of PLHA (5)/IDUs (1)	Their own businesses; mobilize resources (including money, space and support) from local businesses, pagodas, women's groups, etc.; some INGO funding to group leaders, local NGOs with funding from international donors; Many voluntary groups (esp. peer-based groups) receive no outside funding	HIV/AIDS prevention, care and support, and education; some policy advocacy; issue based advocacy; livelihood, empowerment; drug overdose prevention/rescue; community-based detoxification and relapse prevention
Faith-based groups	30+ (mostly in South)	INGOs, foundations; individual donations; many FBOs operate on a voluntary basis and receive no outside funding	Care and support for PLHA, HIV education, spiritual support, OVC, palliative care, livelihood, detoxification and relapse prevention.

* Includes all forms of legal registration, including as associations, enterprises, science and technology organizations, cooperatives, cooperative groups, and household businesses.

EXPANDING THE ROLES OF CSOS

A strategy composed of four inter-related elements improved organizational capacity, legal registration, advocacy with government and the community, and changes to the legal framework can help CSOs assume a larger and more effective role in Vietnam's HIV/AIDS response.

A facilitator from USAID/HPI partner, Center for Community Health Promotion, captures the progress of a self-help group's small business plan at an USAID/HPI CSO capacity building workshop (Photo credit: NOI Pictures)

First, CSOs must be competent to take on larger roles but also must be supported as they assume new responsibilities. Several PEPFAR partners and international NGOs including Pact, USAID/HPI Vietnam, and CARE International have provided technical and organizational capacity building for various types of CSOs, with Pact focusing on local NGOs and USAID/HPI and CARE on un-registered self-help and grass-roots groups and networks. FHI 360 has also provided considerable technical capacity building to CSOs on HIV prevention among most at-risk populations. Pathways, for Participation, a new program funded by USAID and implemented by RTI International and CARE from October 2011 to September 2016, will expand and unify this capacity building effort to help develop the needed competence and readiness among all types of CSOs. The most important and needed competencies for CSOs include improved management systems, financial and program reporting, and the capabilities to build and retain quality staff. Through Pathways and the civil society component of Global Fund Round 9 (implemented by the Vietnam Union of Science and Technology Association [VUSTA] with sub-recipients Pact, the Institute for Social Development Studies [ISDS], and the Center for Community Health and Development [COHED]) several leading Vietnamese NGOs will be assigned increased roles in providing leadership and capacity strengthening to other CSOs. This substantial expansion of mandate, and the commensurate increase in funding, will require sustained organizational strengthening and training in policy advocacy and other topics. Coordination between Pathways and the Global Fund Round 9 will also be necessary to avoid duplication of effort in the four overlapping provinces (Hanoi, HCMC, Can Tho, and Nghe An) among the nineteen targeted by the two projects.

Second, legal registration enhances CSOs' status and will greatly facilitate their receipt of funding from international donors, international NGOs, foundations, and, ultimately, the Vietnamese government. Legal registration also brings greater respect from governmental authorities and helps CSOs attract and retain high-quality staff. However, Vietnam does not have a coherent legal framework for the recognition or operation of CSOs. While the HIV/AIDS law "encourages" the participation of faith-based and non-governmental organizations, including peer education groups and clubs in the HIV/AIDS response, there is no Vietnamese legal document that explicitly authorizes the existence of "civil society organizations". Instead of a clear and coherent legal framework recognizing the legitimacy of CSOs, there is presently a patchwork of legal documents that provide at least seven options for CSOs to obtain different forms of legal registration, including as associations, cooperatives, enterprises, science and technology organizations, cooperative groups, and household businesses[2], and a small number of grass roots groups have obtained registration under several of these options.

There have been repeated efforts to enact a *Law on Association* to replace the current Decree 45 but multiple drafts have failed to win approval. Decree 45 ostensibly provides an avenue for registration as associations but very few groups have utilized it. A major problem is that to qualify for registration as an association a group's objectives and activities may not overlap with those of any other already registered association in that location. In several provinces, HIV/AIDS associations have been registered with broad mandates in prevention and care thus preventing other groups from being separately registered to do similar work.

USAID/HPI has assisted five groups selected through a competitive, stepwise capacity building program to obtain registration as cooperatives, cooperative groups, household businesses, or limited companies and provided modest funding for them to implement business plans developed during the training. Groups must make their own decisions as to the specific registration option to pursue. In making such decisions it is important to balance possibly countervailing factors. For example, registration as an enterprise or cooperative may bring more advantages and status (e.g. full recognition as a "legal entity") than registration as a cooperative group or household business. On the other hand, cooperatives and enterprises are subject to corporate income tax while cooperative groups and household businesses are exempt from income taxes and bear less legal liability.

Most grass-roots groups that have obtained registration thus far, including USAID/HPI's final five, have used the business-oriented options because these are the easiest to complete successfully. They have established "social enterprises" that use a portion of their revenues to support HIV/AIDS services. The office supply business run by leaders of the Bright Futures PLHA group in Hanoi is a notable example of this approach.

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[2] The options and their requirements are summarized in: HPI Vietnam and UNAIDS, Establishment and Registration of Legal Entities. Hanoi: Judicial Publishing House, 2nd ed. 2011.

In general, the current requirements for registration under all options are complex and can be daunting for nascent groups to complete without assistance. Different government agencies issue different types of legal registration and the responsible agencies vary from place to place. In seeking registration, some groups face a classic "Catch-22": they need an office and funds to qualify for registration but they need registration to raise funds and lease an office.

Legal registration is important but it is not essential for all groups. As noted, voluntary groups can make important contributions without registration or funding. Some groups choose not to pursue registration due to a perceived lack of organizational capability or desire to avoid the supervision by government or quasi-government bodies that are required under all registration options. On the other hand, some CSOs choose to operate under the umbrella of other organizations such as HIV/AIDS Associations or the Red Cross. CSOs must make their own decisions on whether and how to pursue legal registration but, for those that do want to register, there is a real need to simplify and remove barriers to the CSO registration process.

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Third, government at all levels, mass media, and the general community need to be convinced of the valuable roles that CSOs can play in the HIV/AIDS response. There remains substantial mistrust of CSOs based on perceptions that they may resist, criticize, or otherwise cause trouble for the government. It is extremely important in this context to provide evidence that CSOs can and do provide high-quality services in a cost-effective and sustainable manner and that an expansion of their roles can complement government services and help Vietnam reach its ambitious HIV/AIDS goals, while helping to fill gaps in funding resulting from declining support by international donors. Images and stories of successful CSOs disseminated through mass media can be persuasive in this regard. Likewise, local and external examples of effective CSO contributions to health and development efforts may be of value. For example, VUSTA has commissioned a comparative study of civil society-government relations in China, India, the Philippines, and Russia.

Fourth, improved understanding of and changes to Vietnamese legal documents may be needed to enable CSOs to play an expanded role. The existing legal framework is inadequate in two important respects: enabling CSOs to receive funding (legal registration requirements, described above) and providing funds for CSOs to receive *(Budget Law)*.

Currently, the simplest options for legal registration are as a household business or cooperative group. The revenues generated by such entities must go in large part to support the livelihoods services. This is a potentially sustainable model in an era of constrained resources because it enables groups to support themselves and deliver some HIV/AIDS services. However, direct funding of CSOs by the government would enable CSOs to focus fully on delivering services and become part of the system of professional health providers. Unfortunately, the current *Budget Law* does not authorize the Vietnamese government to fund non-governmental organizations except mass organizations and "social organizations" such as the Red Cross. If the government can be convinced of the value of an expanded CSO role, it may be possible to win approval of the necessary changes to the *Budget Law,* as well as to enact a *Law on Association* that recognizes the legitimacy of CSOs and establishes simpler and less challenging legal registration procedures.

Vietnam's procedures for the procurement of goods and services from the private sector (e.g. Decree 39/2008/QD-TTg, March 14, 2008) may offer an alternative method for CSOs to obtain government funding to deliver HIV/AIDS services through a competitive bidding process. This approach has been employed very successfully at the provincial level in China. There, the procurement of HIV/AIDS prevention, care, and support services from NGOs is explicitly called for in section 17 of the Notice of the State Council on Further Strengthening HIV/AIDS Response[3]. The monitoring and evaluation framework for China's national HIV/AIDS Action Plan includes an indicator for the number of HIV/AIDS initiatives implemented by NGOs and CSOs. A case study from Changsha, Hunan Province documents the effective delivery of HIV prevention services for MSM by an NGO under a competitively awarded contract with the province's Center for Disease Control[4].

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Legal documents under Vietnam's Law on Corporate Income Tax may also be beneficial to "social enterprises" and other groups registered as cooperatives or businesses. Decree 124 on Corporate Income Tax has been revised to reduce from 51% to 30% the minimum share of an organization's workforce composed of PLHA, disabled people, or recovering drug users required to qualify for a full tax exemption (see Decree 122/2011/ND-CP, December 27, 2011). An additional circular under the new Decree 122 should be developed to include methods of protecting the confidentiality of workers whose status must be used to qualify for this tax exemption. The new revised Decree 122 will also allow businesses to deduct from their taxable income the costs of any HIV/AIDS services that they provide.

USAID/HPI will work in collaboration with the Pathways and Global Fund projects and other stakeholders to advocate for the legal and policy changes needed to facilitate CSOs' crucial expanded roles in Vietnam's HIV/AIDS response.

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[3] Gua Fa No. 48: December 31, 2010.

[4] China-Gates Foundation AIDS Prevention Cooperation Program. Our Stories: Government Contracts for Services from Grass-roots Organizations Fighting Against AIDS: The Changsha Experiment.