



USAID | HEALTH POLICY
FROM THE AMERICAN PEOPLE INITIATIVE VIETNAM



COMBINED REVIEW OF HIV/AIDS POLICY AND LEGAL FRAMEWORK AND ASSESSMENT OF FIVE YEAR OF IMPLEMENTATION OF HIV/AIDS LAW

FULL REPORT

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I. Abbreviations

05 center	Rehabilitation center for sex workers
06 center	Rehabilitation center for people who use drugs
ART	Antiretroviral therapy
BCC	Behavior change communication
CBO	Community-Based Organization
CDC	Center for Disease Control and Prevention of United States of America
CSO	Civil society organization
DFID	Department for International Development
DOCST	Provincial Department of Culture, Sport and Tourism (DOCST)
DOH	Provincial Department of Health
DOJ	Provincial Department of Justice
DOLISA	Provincial Department of Labor, Invalid and Social Affairs
DPOS	Provincial Department of Public Security
FGD	Focus group discussion
FP	Family planning
GOPFP	General Office of Population and Family Planning
HCMC	Ho Chi Minh city
HPI	Health Policy Initiative
IDI	In-Depth interview
IEC	Information-education-communication
INGO	International Non-Governmental Organization
IRB	Internal Review Board
M&E	Monitoring and evaluation
MARP	Most at risk population
MMT	Methadone Maintenance Treatment
MOCST	Ministry of Culture, Sports and Tourism
MOD	Ministry of Defense
MOET	Ministry of Education and Training
MOF	Ministry of Finance
MOH	Ministry of Health
MOHA	Ministry of Home Affairs
MOJ	Ministry of Justice
MOLISA	Ministry of Labor, Invalids and Social Affairs
MOPS	Ministry of Public Security
OPC	Out-patient clinic
PAC	Provincial AIDS Center
PEPFAR	The President's Emergency Plan For AIDS Relief
PLHIV	People living with HIV/AIDS
PMTCT	Prevention for Mother to Child Transmission
PPC	Provincial People's Committee
PWID	People who inject drugs
RH	Reproductive health
RTI	Reproductive tract infection

S&D	Stigma and discrimination
SW	Sex worker
UN	United Nations
USAID	United States Agency for International Development
VAAC	Vietnam Administration for AIDS Control
VCT	Voluntary Counseling and Testing
VICOMC	Vietnam Community Mobilization Center for HIV/AIDS Control
VNGO	Vietnam Non-Governmental Organization
VUSTA	Vietnamese Union of Science and Technology Associations
YU	Youth Union

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V. Executive summary

The findings in this report are based on the USAID/HPI joint assessment of the implementation of the Law on HIV/AIDS Prevention and Control (the HIV/AIDS Law) and of the legal and policy framework on HIV/AIDS and related areas of drugs, sex work, and the role of civil society in the HIV/AIDS response. The assessment involved more than 300 respondents in eight provinces, as well as a desk review of more than 160 legal documents and other materials. The assessment and desk review, carried out with the assistance of BDL Company, addressed the domains of prevention, stigma and discrimination, and general HIV/AIDS programming, as covered in the HIV/AIDS Law, the Law on Drug Control, the Ordinance on Prostitution Prevention and Control, and the Law on Handling Administrative Violations.

The HIV/AIDS Law was developed at a time when it was relevant to the 1992 Constitution and the international treaties that had then been signed by Vietnam, and international commitments made due to Vietnam's membership in groups and other legal entities. The current legal and policy framework provides a good foundation for the response to the epidemic but significant gaps and inconsistencies remain to be addressed before a fully comprehensive and synchronized framework is achieved to support an evidence-based and sustainable response.

Major findings

- The policy and legal framework needs revision and supplementation so that the legal documents on HIV/AIDS, drug and sex work prevention and control, as well as harm reduction in HIV/AIDS, are synchronous and practical for implementation.
- Legal documents should be improved to strengthen the participation of civil society organizations (CSOs) in order to broaden the response to HIV/AIDS and improve the sustainability of efforts.
- Policies and legal documents need to be further expanded to support the integration of HIV/AIDS activities into socioeconomic development programs, health care and social security programs.
- According to instructions issued by the Provincial People's Committee (PPC), the HIV/AIDS Law has been disseminated in the localities. However, this effort lies in the hands of those provincial agencies that are charged with the implementation and the required information and instruction has not reached many provincial and local agencies, officials, and communities.

- Communication and propaganda about laws at the grassroots level is done but there are many limitations, especially in the remote disadvantaged and mountainous areas where there is a high density of ethnic minority people.
- Monitoring and evaluation (M&E) of the implementation of the HIV/AIDS Law is not reflected in the plans or reports on HIV/AIDS provided by the localities.

Harm reduction

- Charged with executing the policies of the Party and Government, provinces/cities have successfully implemented the harm reduction program in HIV prevention. Multisectoral cooperation in harm reduction has also resulted in progress.
- Resources for harm reduction programs are gradually shrinking as donor support declines.
- Due to conflicting content in legal documents regarding HIV/AIDS and drug control, implementation of Methadone Maintenance Treatment (MMT) continues to be limited.
- Clean syringe distribution/exchange for people who injects drugs (PWID)PWIDs has been implemented in most localities however there continues to be some resistance from officials and the community.

Sex work

- The Ordinance on Sex Work Prevention and Control (Sex Work Ordinance) and relevant legal documents mention female sex workers (FSW) but no specific mention is made of transgendered people, homosexuals, and male sex workers (MSW). Currently, transgender people, homosexuals and MSWs are working in the sex trade while no current regulations apply specifically to them.
- The Law states that community outreach workers are breaking no law when they distribute condoms, and the owners/managers of lodging houses, hotels and entertainment establishments are to cooperate with outreach workers and provide these condoms free of charge. However, outreach workers who go to hotels and lodging houses to implement condom distribution programs/projects are sometimes considered to be aiding and abetting sex work. When police find condoms in a wardrobe or bedside cabinet in a hotel/lodging house, they still sometimes use this as evidence of sex work being done or as the basis for extorting bribes.
- Decree No. 178/2004/ND-CP, dated October 15, 2004: Article 7 in the Sex Work Ordinance stipulates that a close combination of measures for sex work and

HIV/AIDS prevention and control should be undertaken. However, what this combination should be is not specified. The Decree should be amended and supplemented, and contain a clear statement that at 100% of lodging places and entertainment establishments must have condoms in place and the presence of condoms is not to be considered evidence of sex work or the basis of extortion of bribes.

Drug control

- It is stated in Decree No. 108/2007/ND-CP: *Treatment of opiate dependence with a substitute substance (hereafter referred to as substitution treatment) is not to be applied in the a detention center managed by the Ministry of Public Security (MOPS), the Ministry of Defense (MOD) or in a medical treatment establishment managed by the Ministry of Labor, Invalids and Social Affairs (MOLISA).* Meanwhile, there is the need to provide substitution therapy in the target provinces/cities due to significant drug use and HIV/AIDS. Treatment is needed by PWIDs and the target to provide treatment for 80,000 PWIDs by 2015 has been stipulated in Decision No. 5146/QĐ-MOH, dated December 27, 2010. Limiting the expansion of substitution treatment in Decree No. 108 is irrelevant to the actual need and practice of substitution treatment but it limits participation by MOLISA, MOPS and MOD in providing substitution treatment services for needy people.
- Article 2, Item 15 in the HIV/AIDS Law states that “*harm reduction interventions in HIV prevention*” include communication, condom and clean syringe provision, MMT, and other harm reduction interventions to facilitate practicing safe behaviors for HIV prevention. Article 3 in the Drug Control Law stipulates prohibited acts, stating in Item 3: “*supporting the illegal use of narcotic substances*” and in Item 4: “*transporting, buying and selling means and tools for use in the illegal production and/or use of narcotic substances.*” In the fight against drugs the provision of clean syringes and accompanying distilled water is still sometimes considered to be supporting the drug use. Peer educators who possess or give syringes to an PWID may be accused of transporting, buying or selling means and tools for drug use.

Participation by civil society organizations in response to HIV/AIDS

- Participation of CSOs in response to HIV/AIDS in Vietnam has developed and is, to some extent, recognized and valued.
- However, there is no adequate policy or legal framework that facilitates activities of self-help groups or community-based organizations (CBOs). Vietnam has no regulation about registering a PLHIV’s self-help group as a legal entity to enable them to provide community support in response to HIV/AIDS. When such a group is not registered as a legal entity it finds it difficult or impossible to become eligible to receive funds for operation. *(In order to register to become a legal entity, these groups have to register as a technology association, a business or a household)*

- There are no specific guidelines for a provision addressing mobilizing and promoting the role of CSOs involved in HIV/AIDS activities. In fact, voluntary CBOs involved in HIV/AIDS activities are not officially recognized.
- There is no current legal basis for the existence or access to government funding of CSOs, especially community-based groups of PLHIV, PWIDs, SWs and MSM.

Integration of HIV/AIDS program in socioeconomic development program

- There are no legal documents to require integration of HIV/AIDS activities in socioeconomic development projects.
- Resources for HIV/AIDS programs in the localities are limited. Currently, most HIV/AIDS activities depend on resources from the Central level (the national target program) with only a few of them funded by international organizations.
- Multi-sectoral cooperation is not carried out evenly in all localities. It exists but the lower the level is, the less effective the cooperation becomes.
- No initiative has been shown to include HIV/AIDS activities as part of an infrastructure development, business, production or service project in any locality.
- Provisions for “Integrating HIV/AIDS program into socioeconomic development programs” are not specific or clear, especially in pointing out the resources to carry out this work.

Integration of HIV/AIDS in reproductive health programs

- Integration of HIV/AIDS programs with reproductive health care programs of the health sector is not broadly done.
- There are no national guidelines on the integration of HIV/AIDS programs into reproductive health (RH), reproductive tract infections (RTIs), sexually transmitted infections (STIs) or Family Planning (FP) programs.
- Although the HIV/AIDS Law includes some important development programs that are to be integrated into the HIV/AIDS program, the HIV/AIDS Law makes no mention of integration with Family Planning even though the integration of family planning services into HIV prevention has been highly effective.

The full array of recommendations for legal and policy development and revision may be found in the recommendations section of this report, with more detailed descriptions in an

annex, and the recommendations for legal and policy development for the next 5 years are summarized in a separate Short Report.

VI. Background

USAID's Health Policy Initiative Vietnam (USAID/HPI) has been implementing activities since 2008 and is funded by the US Agency for International Development (USAID) within the US President's Emergency Plan for AIDS Relief (PEPFAR), assisting and collaborating with efforts made by the Government of Vietnam, social organizations, and other stakeholders to develop and implement evidence-based and best practice-driven laws regarding health, including HIV/AIDS policies and plans, as well as programs for HIV/AIDS prevention, care and treatment, and impact mitigation in Vietnam.

The project aims to achieve three key results:

- 1) Facilitate the adoption and implementation of national and local HIV/AIDS policies, plans and programs based on international best practices
- 2) Strengthen and support effective public sector and civil society advocates and networks to assume leadership in the policy process and
- 3) Develop and deploy timely and accurate data for evidence-based decision making

In recent years, Vietnam has developed and put into practice many legal and policy documents related to HIV/AIDS prevention and control including policy documents on drugs and sex work. The Law on HIV/AIDS Prevention and Control (HIV/AIDS Law) and Decree No. 108/2007/ND-CP (Decree No. 108) provide a strong foundation for human rights and evidence-based HIV/AIDS policies and programs in Vietnam.

HIV/AIDS Law No. 64/2006/QH11 was passed by the National Assembly during its 10th session and the law became effective on January 1, 2007, with the following principles in HIV/AIDS prevention and control (Article 3):

A combination of social, technical and medical measures in HIV/AIDS Prevention and control on the principle of regarding prevention as the major measure with information, education and communication for behavioral change as the key measure.

1. *The implementation of multi-sectoral collaboration and social mobilization in HIV/AIDS prevention and control; the integration of HIV/AIDS prevention and control activities into socioeconomic development programs.*
2. *A close combination of HIV/AIDS prevention and control with the prevention and control of drug abuse and sex work, attaching importance to harm reduction intervention measures in the prevention of HIV transmission.*

3. *The elimination of stigma and discrimination against HIV-infected people and their family members; facilitation of HIV-infected people and their family members to participate in social activities, especially in HIV/AIDS prevention and control.*

Through five years of HIV/AIDS Law implementation, the Government, the Ministry of Health (MOH), the Ministry of Labor, Invalids and *Social Affairs (MOLISA)* and the *Ministry of Culture, Sports and Tourism (MOCST)*, and many other relevant ministries and sectors, developed many legal documents related to HIV/AIDS prevention to be put into practice. However, despite efforts by public agencies, the legal and policy framework on HIV/AIDS is still incomplete. There are many inconsistent/irrelevant provisions in terms of contents and implementation.

With the issuance of the Law on Handling Administrative Violations in 2012, many articles of the HIV/AIDS Law and other legal documents that have a direct relation to this Law, including the Drug Control Law and the Sex Work Ordinance, should be reviewed and adapted. Harmonizing legal documents remains critical to an effective and sustainable HIV/AIDS response in Vietnam.

In such a context, in cooperation with / Vietnam Administration for AIDS Control (VAAC) and the Legislation Department of MOH, USAIDS/HPI organized a combined review of the HIV/AIDS legal and policy framework and a 5-year review of the implementation of the HIV/AIDS Law.

Given that VAAC planned to review HIV/AIDS care and treatment programs in Vietnam with financial and technical support by US Center for Disease Control and Prevention (CDC), this review will exclude that domain.

The review was carried out by USAID/HPI in collaboration with its subcontractor, The Bach Diep Lam Company (BDL Co.), from March 8 to July 15, 2013. Data were collected at the central level and in eight selected provinces/cities: Hanoi, Quang Ninh, Dien Bien, Ha Tinh, Da Nang, Dak Lak, Ho Chi Minh City (HCMC) and Dong Thap.

VII. Research Methodology

1. Research objectives

The objective of this report is to review the policy and legal framework of HIV/AIDS prevention, care and treatment in Vietnam. In addition, this report contains an assessment the implementation of Vietnam's Law on HIV/AIDS Prevention and Control (HIV/AIDS Law) during the past five years, with special attention focused on harm reduction interventions, prohibitions against HIV/AIDS related stigma and discrimination, the role of civil society organizations, and the integration of HIV/AIDS program into socioeconomic development programs.

The policy review assessed:

- Inconsistencies between legal documents relating to HIV/AIDS, sex work and drug use, stigma and discrimination, the role of civil society organizations, and the integration of HIV/AIDS programs into socioeconomic development programs.
- Implementation of the HIV/AIDS Law relating to harm reduction interventions, prohibitions stigma and discrimination, the role of civil society organizations, and the integration of HIV/AIDS programs into socioeconomic development programs.
- Suggested new and/or revised HIV/AIDS-related legal and policy documents needed to achieve a comprehensive, effective and sustainable HIV/AIDS response.

2. Research design

The review employed qualitative methods including a desk review, indepth interviews and focus group discussions and was conducted from March 8 to July 15, 2013.

Preparation: This step took place from the middle of February until the end of March 2013, and included a month for Internal Review Board (IRB) application and approval. Research protocol and tools were developed in late March and pre-tested in late April, 2013.

Desk review: Legal documents pertaining to HIV/AIDS, sex work and drug control were collected right after the subcontract with BDL was signed. A subgroup (three researchers) reviewed and analyzed these documents and a written report was prepared in late May 2013. This final report was completed by the middle of July 2013.

Field data collection: Immediately after receiving IRB approval (April 16, 2013), the data collection process started in Hanoi and then proceeded to the remaining seven provinces/cities. In each selected province, a research team conducted the review in cooperation with Provincial AIDS Center (PAC) and local organizers for six to seven days.

On the last day, a meeting was called by PAC to present and verify the key findings of the research team. The process of data collection was completed in the last week of May 2013.

Data entry and coding: Recorded files were immediately transcribed at the end of each field trip.

Data analysis and report writing: The process was carried out from May to July 2013.

Report review and finalization: USAID/HPI presented the preliminary results on 16th, July 2013 in Hanoi.

All research tools were reviewed by the USAID/HPI team, MOH (Department of Legislation and VAAC) and then were pre-tested in Hanoi before being used for data collection in the eight selected provinces/cities.

In-Depth Interviews

In order to collect diversified information of various dimensions on the legal and policy framework, and HIV/AIDS Law implementation, key informants at all levels were interviewed, including the following:

Central level: 24 IDIs were conducted with key informants

- Vice Chairman of the National Assembly Social Affairs Committee
- Representative - Office of Government
- Representative - Party Commission on Popularization and Education
- Representative – Experts of the National Commission on HIV/AIDS, Drugs and Sex Work
- Representatives – Ministries: MOHA, MOJ, MOPS, MOCST, MOLISA
- Representative – MOH Departments/Administrations: VAAC, Department of Legislation, Health Insurance Departments
- Representative - UNFPA, International NGOs (USAID/Pathways project)
- Representatives - networks of PLHIV, PWIDs, SWs and MSM

Provincial level: 43 IDIs were conducted with key informants

- 3 Chairpersons of provincial/municipal Steering Committees for HIV/AIDS, drugs and sex work who also serve as Vice Chairpersons of Provincial People Committees in Quang Ninh, Dien Bien and Dak Lak provinces;
- 8 DOH Directors/Vice Directors
- 16 representatives of relevant provincial departments (Department of Justice, DOLISA, WU)
- 8 leaders and staff of Provincial AIDS Centers (PAC)
- 8 representatives of Vietnamese NGOs

District level: 16 IDIs were conducted with key informants:

- 6 representatives of District People's Committees (DPC)
- 8 representatives of District Health Centers (DHCs)

Commune level: 40 IDIs were conducted with key informants and nearly 200 PLHIV, SWs and PWIDs participating in FGDs:

- 8 representatives of Commune People's Committees (CPC)
- 8 representatives of Communal Health Centers (CHCs)
- 24 representatives of CSOs including PLHIV networks, PLHIV self-help groups and most at risk populations (MARPs) (SWs, PWIDs and MSM) to learn about their participation in the development and implementation of HIV/AIDS Law. In addition, 27 FGDs were organized with the participation of 196 people.

Focus Group Discussions

27 FGDs were held to explore the opinions of members of the target groups. Discussion groups included nine representative PLHIV groups, three men who have sex with men (MSM) groups, 6 female sex worker (FSW) groups and 9 injecting drug user (PWID) groups.

Data Collection

The review was conducted from March 8 to July 15, 2013. The field data collection was conducted in eight selected provinces. Data were collected at all four levels of administration: central, provincial, district and commune levels. Study participants met with many administrative leaders, service providers, community authorities and social organization members, representatives of CSOs and beneficiaries at the research sites.

In order to gain comprehensive insight into the implementation of HIV/AIDS related legal documents, 8 cities/provinces that represent eight regions of Vietnam were selected for this review.

The selection of provinces was made with consideration of four key dimensions:

1. Epidemiologic profile and trends: The selected provinces/cities have the largest numbers of HIV/AIDS cases and several of the provinces have experienced a sharp increase in number in cases over the past several years
2. Diversity of policy approaches to HIV/AIDS and related issues, from provinces/cities with a relatively 'inflexible' approach (Son La, Da Nang, Tuyen Quang and Thai Nguyen) to those with 'more flexible' approach (HCMC, Hai Phong, Can Tho, An Giang)
3. Diversity of funding sources for HIV/AIDS programs – e.g. provinces with substantial international donor support (PEPFAR focus provinces) vs. provinces that depend on national target programs (Quang Ngai, Ha Tinh, Ninh Thuan)
4. Geographical/regional diversity: northern, central and southern Vietnam.

Based on the four key dimensions above, eight provinces/cities were selected, as shown in Table 1:

Table 1: List of eight selected provinces

Provinces	HIV prevalence	International vs. domestic support	Geographic region	Sharp increase in past years
Quang Ninh ¹	High	High	North East	
Hanoi	High	High	Red River Delta	
Dien Bien	High	Low	North West	Yes
Ha Tinh	Low	Low	North Central Coast	
Dak Lak	Low	Low	Central Highland	
HCMC	High	High	Southeast	
Dong Thap	Low	NTP	Mekong River Delta	
Da Nang	Low	High	South Central Coast	

118 IDIs and 27 Focus Group Discussions (FGDs) were conducted in 8 selected provinces, of which six IDIs and three FGDs were for pretesting purposes.

Desk Review

For the desk review, two tables were created and used to review relevant legal documents to cover all aspects of document analysis. This allowed the researchers to do a comprehensive review of the existing legal documents relating to HIV, sex work and drug control to discover gaps and inconsistency within and between these documents.

This assessment included a review of more than 160 documents, including policies and Legal documents, policy briefs and reports on HIV/AIDS², sex work and Drug Control were reviewed and documented. Inconsistencies between/among these documents were identified and analyzed. Gaps representing a lack of supportive legal documents for the implementation of the HIV/AIDS Law were also reviewed and analyzed.

- Update USAID/HPI's existing reviews of the legal and policy framework on HIV/AIDS, drug use and drug rehabilitation, sex work, and the role of CSOs.
- Systematize and review current legal documents related to HIV/AIDS, drug control and sex work that were not included in the existing reviews.
- Conduct a systematic search of peer-reviewed and 'grey' literature on the legal and policy framework in Vietnam.
- Review the annual and 5-year plans of the National Assembly (including the priority and waiting list for each year), the Government, MOH, MOLISA, MOPS, MOCST,

See the working schedule in Annex 7

² See Annex 3 for the list of HIV/AIDS-related legal documents

MOJ, MOHA and MOF prior to recommending the development or revision of relevant legal documents.

- Review reports on the implementation of HIV/AIDS programs and the proceedings/reports of the national workshop on HIV, drug control, sex work interventions, and Civil Society Organizations (CSO) activities in relation to HIV/AIDS.

Figure 2: Indicators used to assess the legal documents were selected to ensure a generality suitable to the issues for review, including:

No.	Indicators	Specific aspects
1	Transparency	Clarity in substance: + Accurate and understandable language + Clear presentation – contents not likely to be interpreted in more than one way Clarity in implementation plans [unclear]: + Clarity concerning rights and obligations + Clarity in sequence, procedure, costs (time, money) Risk of harassment, corruption?
2	Consistency	Compliance with legal documents that have greater authority? Does conflict with provisions within that document and does not conflict with the other legal documents. Compatible with Vietnam’s international commitments?
3	Relevance	No unreasonable provision that hinders measures for HIV/AIDS prevention and control, HIV/AIDS care, treatment, support and conditions to ensure the implementation of HIV/AIDS programs. Relevance between HIV/AIDS Law and legal documents that pertain to drug and sex work laws/
4	Feasibility	Feasible to implement? Responsibilities of organizations and agencies for implementing the legal regulations Ensure efficiency for society and PLHIV

In-depth interviews (IDIs)

118 IDIs were conducted to collect information from the key informants along with diversified opinions of relevant agencies, organizations and target groups. Key informants at four levels, from central to communal, were interviewed. Four unstructured questionnaires were used with members of each group of policy makers, policy implementers, community leaders and beneficiaries to gather diversified opinions from various groups about the HIV/AIDS Law and its implementation, to discover the challenges, and to find out what legal documents should be revised or developed.

Semi-structured questionnaires were formulated to carry out IDIs. An IDI guide for key informants who were policy makers at the central level directed questions to obtain their point of view regarding the legal framework as it relates to HIV/sex work/drug control, gaps or inconsistencies, what should be done to correct problems and how/when this could be done. They were also asked for their understanding of and comments on HIV/AIDS law implementation. An IDI guide for key informants who were policy makers at the provincial/district/communal level directed questions to discover how they felt about the legal documents and policy framework at the provincial level which is to provide direction for implementation of the law pertaining to HIV, sex work and drug control. They were also asked how the implementation has been managed in the province, what gaps/inconsistencies exist that they recognize and what was being done to overcome these problems. They were also asked about the integration of AIDS prevention into local development plans as is directed in the HIV/AIDS Law, what constraints they face, and what successes they have had in the last five years.

The IDI guide for key informants who were implementers (representatives of relevant departments/organizations, including PAC staff and the Women's Union) asked how the HIV/AIDS Law was implemented in their areas (harm reduction, stigma and discrimination prevention and CSO involvement), what gaps/inconsistencies they recognized and what has been done so far to overcome these problems. They were also asked about S&D against PLHIV /MARPs in their areas and what they did and would do to prevent it in the future. The IDI guide devised for key informants who were beneficiaries asked mainly about the participation of CSOs, PLHIV and MARPs in the process of law development and implementation, how the HIV/AIDS Law affected them personally (both negatively and positively), what S&D they experienced and what might they do to overcome problems in the future.

Focus group discussions (FGDs)

27 FGDs were conducted in the community. Participants in the FGDs were PLHIV, SWs, PWIDs or MSM. The selection of the target groups was based on the contemporary situation in each province and also achieved a diversity of FGD participants in each selected province. Group discussion guidance was developed to gather opinions from target

group member about their involvement in the HIV/AIDS Law implementation, difficulties or challenges in the implementation and the effect it has had on their lives.

Given that the FGDs included only PLHIV and MARPs (Sex workers, Drug Users and MSM), and unstructured questionnaires were developed for these group discussions. The discussion in the FGDs focused on their perception of the Law (HIV/Sex work/Drug control) and the relevant legal documents, and what they thought could be put into legal documents to give them better access to health/social services and prevent S&D.

Data analysis

All IDIs and FGDs were recorded and notes were taken in the field. Data from the IDIs and FGDs were analyzed using qualitative content analysis methods through the following steps³:

1. *Transcribing*: All IDI and FGD tapes were transcribed in Vietnamese, or translated into Vietnamese, and later checked against the recording for transcription accuracy. Transcribed data were uploaded into a qualitative data analysis package.
2. *Coding*: The Nvivo 8.0 program was used to code the IDI and FGD transcripts. Nvivo also provides tools to manage coded data and process the analyses. The documents were imported into Nvivo software to create a database. Before coding, based on the objectives of the study, the interview topic domains as well as emergent themes, sets of codes were built (a *Code* is considered to be a *Node* in Nvivo terminology). These codes help to mark the necessary information and passages of text in each document, which allows management of information in different categories, questions regarding specific information and analysis of the relationship between the coded information. Researchers read the whole documents to choose relevant information that was to be coded. During coding, new codes can be generated to make sure no information being missed. Such information as age, education, sex, occupation, etc. was also recorded using descriptive attributes in Nvivo (none of the informant's identification information was coded to insure confidentiality). This allowed a comparison to be made of the opinions of the different groups of informants. A team-based codebook was developed. Sets of codes were presented in the codebook and new codes were added as necessary during the on-going analysis. The codebook included underlying interview subtopics. This helped coders understand the content/definition of the codes, including criteria for each code, thereby determining exactly which text needed to be coded. Transcripts coded with interpretive codes were used to identify *core concepts and themes* arising during the interviews, according to respondent type.

³ Qualitative data were analysed using Nvivo Version 8.0 that supports Vietnamese fonts

3. *Data reduction*: This step involved the summarization of data and highlighting key findings from each code to show the relationships between themes. If necessary, data display matrices were also developed to reduce the data further so that the data is more manageable and important findings are displayed.
4. *Data analysis*: This last step involves synthesizing all the quantitative and qualitative data that have been collected, finding relationships between key themes and developing an organizational structure in order to present the findings and recommendations of the study

Quality control

A quality assurance procedure was applied during the whole process of the review. As a preparation step, research team members met to standardize and finalize the research tools and processes. Then, a pretest and validation process of the tools was conducted at a pilot site in Hanoi. This process allowed the Team Leader to make a judgment about the validity of the research tools and refine them.

Results from the pretest also were used to test data analysis to make sure that the data analysis team was familiar with the contents of the research and prepared for coding. A guideline to organize the research in the field was also developed by the Team Leader to standardize all field activities so that each data collecting group could follow the set procedure at the same time.

During data collection, the Team Leader supervised the field work at four sites to ensure that the quality of the interviews would meet the requirements and the activities could go forward on schedule. In addition, staff from USAID/HPI and the MOH Legislative Department monitored the field work in selected provinces.

The Team Leader was also in charge of checking the quality of coding and data analysis to avoid misunderstanding or duplication.

USAID/HPI worked closely with BDL, especially in data analysis and interpretation of results. Data triangulation has been conducted during data analysis. Findings in each province have been verified with key local informants and PAC.

Research ethics

The review followed common practice in conducting research on human subjects. This means that it required IRB approval from Abt Associates and also from the IRB of a local institution (the Hanoi School of Public Health). Abt's IRB and a local IRB reviewed and approved the research and tools, the informed consent forms, and the discussion guides for the focus group discussions before they were held.

The potential risks of taking part in the FGDs or interviews for this assessment were considered minimal. To ensure the voluntary nature of the FGDs, participants were told that they might refuse to answer any question and they withdraw from the IDI or FGD at any time.

FGD participants' names were neither written on paper nor entered electronically when the interviews were transcribed. Any identifying information collected from participants was kept separately from the data in order to protect confidentiality.

Interviews and FGDs were conducted in private places to avoid being heard or seen by outsiders. Information collected during the interviews was only used for this research and only the researchers had access to the documents and audio recordings from the IDIs and FGDs. The audio recordings were not shared with anyone outside the assessment team. All documents and audio recordings were kept in a locked cabinet in a locked room. After the reviews ended, USAID/HPI completed the necessary procedures for disposition of research documents and data.

Limitations of the research

Despite thorough preparation, the research team was unable to have direct contact with the Vice Chairpersons of the Provincial People's Committee (PPC) in five provinces to carry out IDIs. Due to this gap, information relating to general management of provincial authorities regarding HIV/AIDS intervention is limited.

At the central level, the representative of MOF refused to take part in an IDI so the research team had to rely on secondary data to learn about funds allocated for HIV/AIDS programs.

Because the legal and policy framework relating to HIV/AIDS is a relatively broad topic, the research team reviewed many different documents. For various reasons, some issues discovered in analysis, and recommendations relating to the Constitution, are not expressed in this report.

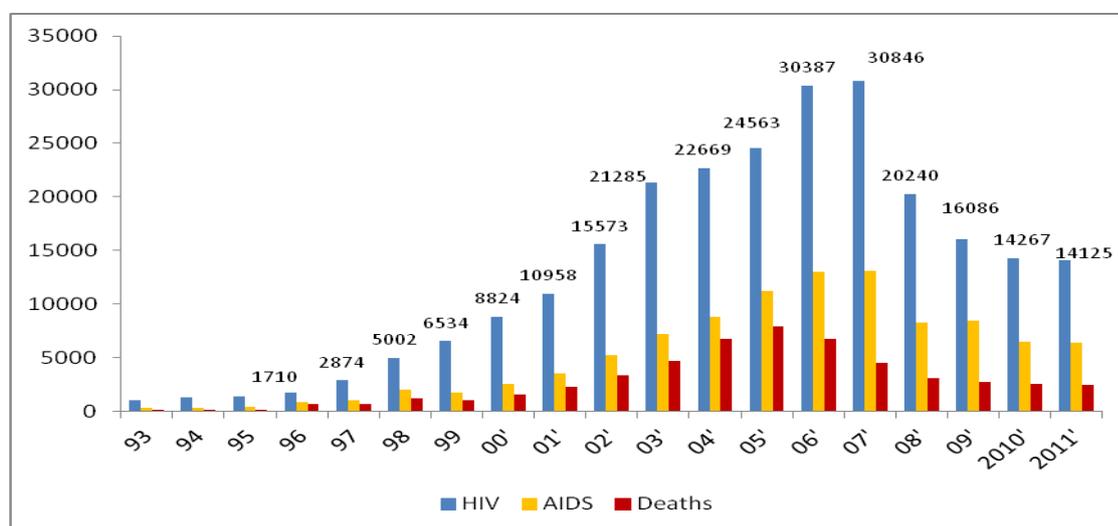
Finally, given that the review focuses only on harm reduction, prohibition of stigma and discrimination, the roles of CSOs and the integration of HIV/AIDS programs into socioeconomic development programs, the research team did not conduct a comprehensive review on the implementation of the HIV/AIDS Law. In particular, it did not consider HIV treatment and care, as this was the subject of a separate assessment by VAAC with support from CDC.

VIII. HIV/AIDS in Vietnam

National response

According to the Government of Vietnam, the HIV epidemic in this country is still concentrated in members of key populations and their partners. During the last two years, the epidemic has, in some provinces, shown signs of slowing with a lower HIV prevalence among the major MARPs, such as PWIDs and FSWs, while in other provinces the prevalence is unchanged or is increasing. Results of the 2011 sentinel surveillance show that HIV prevalence 13.4% among PWIDs and 3% among FSWs. IBBS results show that HIV prevalence among MSM is 16.7%. People infected with HIV are concentrated mostly in the large cities although many rural and remote areas are also seriously affected⁴. The number of HIV cases reported among women has been increasing steadily with 31% of all new cases being female. This reflects a slow but steady HIV spread from men with high risk behavior to women. Generally, the prevalence of HIV among adults (aged 15-49 years) remained at 0.45% in 2011⁵. It was estimated by MOH that HIV prevalence among adults (15-49 years) would remain at 0.45% in 2013 and would not increase by 2015 if the intervention programs are maintained and expanded.

Figure 1: Reported number of HIV/AIDS cases and HIV related deaths from 1993 to 2011⁶



According to statistics that were collected by the research team in eight selected provinces/cities, the number of newly detected HIV cases decreased in the last 3 years. The number of AIDS related deaths has also been decreasing while the number of existing HIV cases is increasing.

⁴ VAAC/MOH, 2012. Vietnam AIDS response progress report.

⁵ MOH, 2011. Preliminary Vietnam HIV/AIDS Estimates and Projections, 2011. MOH, 2011. National Technical Group on HIV Estimates and Projections.

⁶ VAAC/MOH, 2012. Vietnam AIDS response progress report.

Sex work and unsafe sex are causes of HIV/AIDS transmission. Reports from HIV surveillance show that the proportion of HIV infections spread through sexual intercourse is rather high (30-40% of the total number of detected cases), especially in the southern provinces (the South Western region has the highest proportion of HIV infection cases spread through sexual intercourse in the country with 41%) while in the northern provinces of Dien Bien, 28.5% of HIV cases were sexually transmitted.

Having recognized the danger of the HIV/AIDS epidemic, the Party and the State of Vietnam have issued many important legal documents to control the growth of this epidemic. One typical document was “the National Strategy on HIV/AIDS Prevention and Control in Vietnam to 2010 with a Vision to 2020” issued as Prime Ministerial Decision No. 36/2004/QĐ-TTg, dated March 17, 2004. Through the implementation of this National Strategy, in general, ministries, sectors, the Party and provincial authorities lead and instruct others to deploy the strategy contents with the result that some control has been achieved on the speed of growth of the HIV/AIDS epidemic.

At the central level, the National Committee for the Prevention and Control of HIV/AIDS, Drug and Sex work instructed and organized supervision and the acceleration of Strategy implementation, and it instructed that cooperation take place in implementing HIV/AIDS activities regarding drugs and sex work. MOH is the Standing Agency that leads the Government and the National Committee for the Prevention and Control of HIV/AIDS, Drugs and Sex Work to implement this Strategy.

The Prime Minister approved the National Target Program on HIV/AIDS for the 2012–2015 time period which would require funding of VND 3,700 billion.

The program is to contribute to the successful implementation of the National Strategy on HIV Prevention and Control to 2020 with a Vision to 2030, keep HIV prevalence in the general population at < 0.3% and mitigate the impact of HIV/AIDS on socioeconomic development. The specific objectives of the Program are: by 2015, 60% of people aged 15-49 years will be fully aware of HIV/AIDS infection prevention, a fight will continue to battle false beliefs about HIV/AIDS infection, HIV prevalence among PWIDs will be < 15%, among SWs < 5% and among MSM < 10%. Another objective of this Program is that by 2015, 70% of PLHIV who wish to have ARV treatment will have access to it.

The Program is being implemented from 2012 to 2015 with four component projects: (1) *The IEC/BCC project for HIV/AIDS prevention and control, targeting 60% of the population aged 15 – 49 having full awareness about HIV/AIDS infection, and willing to fight against common misconceptions about HIV/AIDS infection;* (2) *HIV/AIDS surveillance and harm reduction interventions in the HIV Prevention Project will establish an HIV surveillance system that will be able to evaluate the HIV/AIDS epidemic in each locality in the country;* (3) *Support for HIV/AIDS treatment and the Prevention of HIV Transmission from Mother to Child (PMTCT) Project which targets reducing HIV prevalence among newborns born to HIV positive mothers to < 5%;* and (4) *Strengthening the Provincial HIV/AIDS Centers Project.*

IX. Legal and policy framework relating to HIV/AIDS

The Party, State, National Assembly and the people of Vietnam have displayed strong commitment to carry on the fight against HIV/AIDS. The Central Party issued Instructions No. 52 and 54 (2005) to establish its leadership in HIV/AIDS prevention in the new situation. In the first years of response to HIV/AIDS, the Ordinance on HIV Prevention and Control was issued (2005) and implementation was carried out in every province/city in the country. However, a serious limitation of this Ordinance is that three issues, sex work, drugs and HIV/AIDS were presented at the same time, in a bundled manner, in many legal documents and this has led to the misconception that HIV/AIDS is also a 'social evil'. This attitude was adopted by many families in the community and society with the result that stigma is felt by PLHIV and the latter are made to feel inferior. All parties did not realize their own role or responsibility. The development of a legal framework should begin with the point of view that HIV/AIDS is a disease that can be effectively controlled by prevention and treatment.

The previous Ordinance on HIV/AIDS stated that education and communication should be given first priority. However, this was not always the case because there has been a lack of 'common voice' among the various authorities regarding the implementation of the Ordinance. In early 2004, the Government issued Instruction No. 03 requesting strong measures for HIV prevention. Based on this, the MOH issued specific guidelines for condom and syringe distribution. However, implementation was blocked in many provinces/cities due to the common perception that such interventions aids and abets sex work and drug abuse. At the same time that health sector personnel were distributing condoms and clean syringes, security personnel were collecting these items to be used as evidence of law breaking. To confront this situation, a Joint Circular was formulated by the MOH, MOPS and MOLISA which requested that all parties, from the PPC to the Director of the Provincial Department of Public Security (DOPS) to the Department of Health (DOH), allow the healthcare sector to carry out strong interventions.

On June 29, 2006, the HIV/AIDS Law was issued by the National Assembly. The law emphasized that harm reduction interventions in HIV prevention are always considered an important solution to achieve the objective of HIV/AIDS prevention and control in the country. Thus far, Vietnam is one of the few countries to have a legal framework that requires implementation of harm reduction interventions. However, the lack of on-the-ground and legal experience resulted in the situation whereby regulations relating to harm reduction interventions in the HIV/AIDS Law sometimes exist only in principle while specific regulations which can be more seriously implemented exist in documents issued by the Government and MOH.

Additionally, during implementation of regulations in the HIV/AIDS Law regarding harm reduction interventions in HIV prevention, new forms of social relationships call for an adjustment of regulations in the law. It is also certain that many current regulations are out of date and the revision and completion of legal documents is needed in the coming time to ensure consistency and synchrony within the legislative system and to create an enabling environment for an actual implementation of harm reduction interventions.

In addition to the HIV/AIDS Law, the legal normative framework relating to HIV/AIDS also includes legal documents that address the prevention and control of sex work and illegal drug use, mandating penalties for these populations who are often in need of harm reduction interventions for HIV prevention. It can be imagined that the policy/legal documents which address all three of these areas should function as a consistent “machine” and create an enabling environment in which the law can be implemented most effectively.



Figure 2: Interrelation between legal documents in HIV prevention and control

Harm reduction for PWIDs is mentioned in the 2000 Law on Drug Prevention and Control (Drug Law) and in the 2008 revised Drug Control Law but these laws do not address the provision of clean syringes or MMT for all drug users nor does it allow these harm reduction interventions to be provided to prisoners or PWIDs in post-compulsory drug detoxification centers (according to the Decree No. 94/2009/ND-CP). On the other hand, many Government officials have recently come to consider drug dependence to be a chronic disease that needs long-term treatment. As a treatable disease, therapy must be managed by the appropriate technical health agencies. However, the view the drug dependence is a disease is not expressed in the prevailing policies. The absence of these provisions in the legal documents relating to drug prevention and control makes the implementation of HIV/AIDS Law even more difficult especially carrying out community-based harm reduction interventions and reducing stigma and discrimination (S&D) against people who use drugs.

Ordinance No. 10/2003/PL-UBTVQH11 on Sex Work Prevention and Control (Sex Work Ordinance) adopted by the National Assembly Standing Committee and Decree No. 178/2004/ND-CP, guiding the implementation of some of the provisions in the Sex Work Ordinance, came into existence. However, these legal documents lack specificity on a number of points which does not create an enabling environment for harm reduction interventions in HIV prevention. In order to cope with sex work in an atmosphere of uncertain management, MOLISA proposed the Action Plan for Sex Work Prevention and Deterrence for the 2011-2015 time period (*issued as Prime Ministerial Decision No. 679/QĐ-TTg, dated May 10, 2011*). This Decision identified the need to examine and supplement legal regulations to create a legal framework for the implementation of harm reduction interventions, including HIV/AIDS prevention, in the law governing sex work with proper attention given to such factors as culture, customs and local awareness.

Another task stated in this Action Plan is the development of community-based models to support SWs in HIV/AIDS prevention and reintegration into the community. This includes: (1) Survey and evaluate existing models for vulnerability reduction, support for reintegration in the community and protection of adolescents from sexual coercion and exploitation for commercial purposes; (2) Study and develop policies to enable NGOs and other CSOs to carry out preventive measures, harm reduction interventions, S&D prohibition and support for SW reintegration into the community; (3) Create pilot community-based models for prevention and support for vulnerability reduction and HIV prevention; (4) Study and development appropriate legal normative and financial mechanisms to provide SWs with favorable conditions to have access to HIV/STIs prevention, medical examination and treatment services, with MMT for SWs who use drugs. In addition, condom promotion for SWs and their clients, support for SWs in vulnerability reduction for SWs regarding being cheated or suffering sexual violence and sexual exploitation, and reintegration into the community. (5) Study and pilot institutional models to support SWs to reintegrate back into the community. These institutions should function to provide psychological and legislative support, STI, HIV/AIDS services, life skills education, and support for reintegration back into the community.

These are new, prominent points in policies governing sex work that create prerequisites for revision and renovation of legal documents in harmony with the HIV/AIDS Law and the new 2012 Law on Handling Administrative Violations.

During the development of the Law on Handling Administrative Violations, which received technical support from UN agencies and other international organizations including USAID/HPI, Vietnamese policy makers adopted a dramatic policy change. This Law ends the commitment of SWs to 05 centers and encourages them to give up sex work through socioeconomic betterment by means of career orientation, employment opportunities and other forms of support. The Law allowed the commitment of PWIDs to 06 centers to continue but only with the review and approval of all cases by a District Court.

National investment for HIV/AIDS program

In the National Strategy on HIV/AIDS Prevention and Control to 2020 with a Vision to 2030, one does not find a comprehensive or adequate response to AIDS in the current situation. In both 2010 and 2011 there was a halt in the growth of both bilateral and multilateral support for a national response to HIV compared to the previous years. This is in spite of the fact that with its significant economic progress in the recent years, Vietnam has become a lower middle-income country. For a number of reasons, donors have been withdrawing financial support and this requires Vietnam to focus more on the national incentive and gradually transitioning the programs to national management.

As reported by MOH⁷, the total amount to be spent for HIV/AIDS from 2008-2012 was to have been VND 7.17 billion, equivalent to USD 358 million. Of this, VND 853 (12%) was to have come from the State budget through the National Target Program for HIV/AIDS, VND 1,081 billion (15%) was to have come from local budgets, VND 179 (3%) was to have come from the Health Insurance Fund, VND 1.572 billion (22%) was to have come from common citizens and VND 3.484 billion (49%) was to have come from international fund sources. Total state budget funding for HIV/AIDS Activities through the National Target Program for HIV/AIDS for the 2008-2012 time period was VND 853 billion. This funding source increases 18-25% every year. Local budgets for HIV/AIDS activities are so limited that they are not fully documented and reported. However, one report of a study on national expenses for AIDS shows that the amount coming from local budgets from 2008-2010 was VND 588 billion, including that spent by the focal agencies in HIV/AIDS programs (data for 2011 and 2012 are not available).

HIV/AIDS prevention, care and support services are mostly covered by the state budget and the amount spent on IV/AIDS-related treatment covered by the Health Insurance Fund makes up very small proportion of that. Only a part of the cost of inpatient treatment for ensured PLHIV is covered by health insurance. Medical services for AIDS outpatients are rarely available. Most of the cost to patients is for travel to the medical care facility, medicine during treatment or tests for HIV test, a CD4 count, viral load and basic tests for ARV treatment where funding projects are not available. On May 7, 2007, Prime Minister Nguyen Tan Dung signed Decision No. 60/2007/QĐ-TTg which established the Support Fund for PLHIV's medical care services.

The Support Fund for PLHAs has been set up (and is directly managed by VAAC, MOH) in 20 provinces/cities. The amount that has been transferred to the Support Fund for PLHIV from the central budget has been VND 1-1.5 billion per year (about USD 50,000). The activities of the Support Fund for PLHAs are rather insignificant.

Contribution by the international community⁸

For many years, the development partners that have been providing the technical and financial support for the national response to HIV in Viet Nam have included:

⁷ VAAC/MOH, 2013. Proposal on financial resource security for HIV/AIDS prevention and control

⁸ VAAC/MOH, 2013. Proposal on financial resource security for HIV/AIDS prevention and control

- Bi-lateral partners: Australia (AusAID), Denmark (DANIDA), France, Ireland, Luxembourg, the Netherlands, Sweden (SIDA), UK (DFID) and the USA (PEPFAR).
- UN agencies: ILO, IOM, UNAIDS, UNDP, UNESCO, UNFPA, UNICEF, UNIFEM, UNODC, UNV and WHO.
- Multilateral organizations: ADB, Global Fund to Fight HIV, TB and Malaria (Global Fund) and World Bank.
- Organizations, projects and INGOs in coalition: Abt Associates/HPI, AIDS Health Care Foundation (AHF), CARE, Chemonics, Clinton Health Access Initiative (CHAI, Clinton Foundation), Esther, FHI 360, Harvard Medical School AIDS Initiative in Vietnam (HAIVN), Management Science for Health (MSH), Médecins du Monde (MdM), Medical Committee of the Netherlands in Vietnam (MCNV), Pact, Program for Appropriate Technology in Health (PATH), Pathfinder, Population Services International (PSI), Save the Children, World Vision, Worldwide Orphans and many other organizations.

External funding continues to provide the bulk of support for the response to HIV/AIDS in Vietnam. Three leading donors are expected to cut down their funding or phase out from the country entirely: the WB/DFID program ended at the end of 2012, PEPFAR announced significant budget cutbacks for 2012 and warned that their funding would be continuously reduced in the following years and the Global Fund recently cancelled Round 11. With the significant reduction of funding from international resources, it is critical to increase the amount coming from domestic financial sources to ensure that the gains of the HIV program that have been achieved in the last years are not reversed. To have a sustainable HIV response, proper attention should be given to planning for the transition period and an improvement of multi-sectoral coordination.

From 2010 to 2012, the total amount mobilized from international projects under the direct management of MOH was USD 120.3 million, which includes USD 100.4 million (83%) of in-cash support and in-kind support and USD 20 million (17%) for ARV, Methadone, and reagents. Statistics for the 2008-2010 time period show that, among the donors, PEPFAR provided the highest proportion (68% of the total international fund as mentioned above); followed by WB and DFID: 9%; Global Fund: 7%; ADB: 6%; Denmark, Australian and Royal Netherlands Governments: 4%; UN agencies: 1% and the other donors: 5%⁹ (the proportion of the budget supported by each donor in the 2011-2012 time period is not fully documented).

This context requires that Vietnam have a sufficient legal framework to ensure the efficient use of resources for a sustainable effort in HIV/AIDS prevention and control. It must mobilize the country's entire internal strength in order to use the external support and technology in a more effective way.

⁹ VAAC/MOH, Report of assessment on national expenses for grants, 2008-2010.

X. Analysis of legal and policy framework relating to HIV/AIDS

All legal documents relating to harm reduction programs for HIV prevention, S&D prohibition with respect to PLHIV and MARPs, participation by CSOs in HIV prevention and the integration of HIV activities in socioeconomic development programs were reviewed with indicators that express consistence and the feasibility of relevant legal documents.

Prohibition of stigma and discrimination against PLHIV and MARPs is analyzed in a separate report as part of this project.

It should be noted that the legal framework of Harm Reduction Programs in HIV prevention is affected by Laws, Ordinances and other legal documents. Many have commented that the legal framework for implementation of harm reduction interventions is relatively adequate.

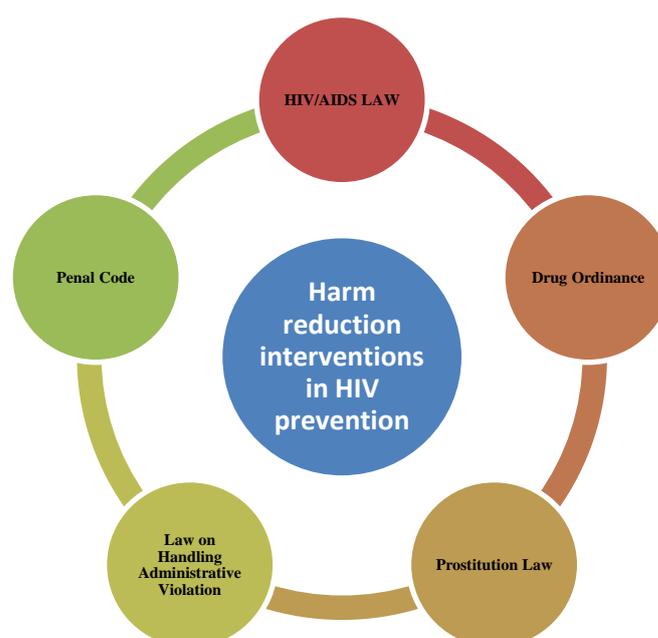


Figure 3: Legal framework relating to harm reduction interventions in HIV prevention

Legal documents relating to harm reduction interventions in HIV prevention have clear normative bases and the contents of these documents do not include any regulations that are contrary to the Constitution or the resolutions, ordinances and decrees that those documents guide with respect to implementation.

Consistency and synchrony of the legal system in harm reduction interventions in HIV prevention is first identified by the consistency between the law of this issue and the legal system regarding HIV/AIDS prevention and control as well as the other legal

sectors in the legal system of Vietnam. Basically, no direct conflict is observed in the legal system regarding harm reduction interventions in HIV prevention. However the consistency and synchrony is not sufficient. Specifically:

It is stated in the HIV/AIDS Law: *"Harm reduction intervention measures in the prevention of HIV transmission include propaganda, mobilization and encouragement of the use of condoms, clean syringes and needles, treatment of dependence on opiate substances with substitute substances and other harm reduction intervention measures in order to facilitate safe behaviors to prevent HIV transmission and carry out harm reduction interventions in HIV prevention."* (Article 2, Item 15) and: *"Harm reduction intervention measures to prevent HIV/AIDS transmission shall be implemented among target groups with risky behaviors through programs and projects suitable to socioeconomic conditions"*. (Article 2, Item 1)

Drug Law: Article 2, Item 15 in the HIV/AIDS Law explains: *"Harm reduction intervention measures in the prevention of HIV transmission"* include propaganda, mobilization and encouragement of the use of condoms, clean syringes and needles, treatment of dependence on opiate substances with substitute substances and other harm reduction intervention measures in order to facilitate safe behaviors to prevent HIV transmission and carry out harm reduction interventions in HIV prevention. Article 3 of the Drug Control Law stipulates acts which are forbidden, Item 3 forbids: *"supporting the illegal use of narcotic substances."* Item 4 of this Article forbids the: *"transporting, buying and selling the means and tools for use in the illegal production and/or use of narcotic substances"*. In the fight against drug-related crime, the provision of clean syringes and accompanying distilled water is considered to be supporting the illegal use of narcotic substances. Peer educators' keeping syringes for distribution to PWIDs may be considered to be transporting, buying and selling the means and tools for the illegal use of narcotic substances.

The amended 2000 Drug Control Law in which some articles have been revised. Article 34 was modified to address harm reduction interventions for drug dependence:

- *Harm reduction interventions for drug dependence means measures to reduce negative consequences of drug dependence for the drug users themselves, their families and the community.*
- *Harm reduction interventions for drug dependence is deployed among drug dependents through programs and projects suitable to socioeconomic conditions.*
- *The Government stipulates specific harm reduction intervention measures for drug dependence and organizes the implementation of these measures*

Even though the Drug Control Law stipulates harm reduction intervention measures for drug dependence, there are no specific guidelines about the contents of harm reduction

intervention measures for drug dependence and how these measures should be implemented. In addition, regulations about drug detoxification in the Drug Law are not consistent with regulations in the HIV/AIDS Law because although drug dependence is considered to be a disease, legal documents provide opiate dependents with only two options: either home-based detoxification or community-based detoxification. The option of substitution treatment is not part of the law. Drug detoxification in compulsory drug detoxification centers is 'cold turkey', a sudden and complete withdrawal from the drug. However, opiate dependence is a chronic disease that needs long-term treatment. At this time there is no legal mechanism for substitution treatment in these centers.

Sex Work Ordinance, Decree No. 178/2004/ND-CP, dated October 15, 2004: Article 7 in the Sex Work Ordinance stipulates a close combination of measures for sex work and HIV/AIDS prevention. However, what that combination should be is not specified. It should be amended, supplemented and made more detailed, with a regulation stating that 100% of lodging places and other entertainment establishments must have condoms in place and the presence of condoms is not to be considered evidence of sex work in these places or the basis of extorting bribes by police or any other functional authority.

The Law on Handling Administrative Violations stipulates: *"Those who are drug dependent, 18 years of age or older and do not have stable residence shall be committed to a compulsory drug detoxification center."* This means that even if the person wants to enter MMT or join another voluntary, community-based treatment program, he or she will still probably be sent to a compulsory drug detoxification center.

The legal system on harm reduction interventions in HIV prevention is fairly stable and appropriate but gaps and problems remain to be addressed for the future. Specifically:

The law on harm reduction interventions in HIV prevention has no regulation on the assurance of continuity in the supply of methadone. Opiate dependence is a chronic disease that needs long-term treatment and support. With a target to treat about 80,000 people by 2015, it is more pressing than ever before to develop regulations to ensure a stable supply of medication and continuity of treatment for patients and thereby contribute to social security.

Some inconsistent phrases in the legal documents may lead to misunderstanding in execution. Article 2, Item 1, Decree No. 96/2012/ND-CP states: *"Opiate dependents are the users and are dependent on opiate substances,"* while in Article 11 of the Drug Control Law it states: *"Drug dependents are the users of drugs, addictive substances and narcotic substances and they are dependent on these substances"*. The inconsistency lies in the use of the words *"opiate"* and *"addictive/narcotic,"* which makes it difficult for local authorities to identify the objects in the implementation of the law, e.g., local authorities might not understand that opiates are both addictive and narcotic and therefore they might think that the Drug Control Law (using the words 'addictive' and 'narcotic') does not apply to those using 'opiates', even though opiates are both addictive

and narcotic. And, authorities might think that Decree No. 96 does not apply to those using drugs that are 'addictive' and 'narcotic' because it says only 'opiate'.

For these reasons, there should be amendment to supplement the legal documents regarding HIV/AIDS, drug and sex work prevention and control in terms of harm reduction in HIV prevention to obtain synchrony as well as convenience in practice.

Legal framework relating to participation by CSOs in HIV/AIDS prevention

In Vietnam, as in many other countries in the world and in the region, there are many CSOs involved in community-based activities including care for PLHIV, harm reduction activities (condom and syringe distribution), referral of PLHIV/MARP clients to appropriate testing and treatment services. At this time, dozens of science and technology associations (managed by VUSTA) and hundreds of networks/self-help groups of PLHIV/MARPs (PWIDs, SWs, MSM) have been established and actively participate in HIV/AIDS program in Vietnam.

The framework of law in Vietnam is the 1992 Constitution, the 1995 Civil Code and Law No. 41/2005/QH11, dated June 14, 2005, on the Conclusion, Accession and Implementation of International Treaties. Based on this legal underpinning, the legal environment regarding people's voluntary organizations has been evolving.

It should be noted that since the first days of the Democratic Republic of Viet Nam, the Party and the Government encouraged all classes of people to participate in the country's development and safeguard all legal forms. According to Order No. 102-SL/L-004, dated May 20, 1957, promulgating the law on the right to set up associations, and the civil right to set up associations, is respected and ensured. Associations must have legal objectives that are deemed suitable and beneficial to the people and they must contribute to the development of the people's democracy in the country.

Pursuant to this Order, the Government issued Decree No. 45/2010/ND-CP dated April 21, 2010 promulgating the organization, operation and management of associations. Most recently, the Government issued Decree No. 33/2012/ND-CP which amended and supplemented articles of Decree No. 45/2010/ND-CP. In this Decree, associations are defined as voluntary organizations of Vietnamese citizens, and organizations are groups of people who have the same occupation, hobby or gender. They gather together, have regular activities, and with an interest in profit they protect the legal rights and benefits of the members and community. The mutual support they provide to each other contributes to the socioeconomic development of the country. Associations are organized and operate under this Decree and the other relevant legal documents. Associations can be organized at a national, provincial, district or commune level and there are regulations

limiting the number of members an organization can have, depending on the level. Organization and activities of the associations are carried out adhering to the following principles:

1. *Voluntary and autonomous*
2. *Democratic, equal, public and transparent*
3. *Functioning on an operating budget*
4. *Non-profit*
5. *Abides by the Constitution, the law and the association's rules.*

Decree 145 should help CSOs register as legal entities but thus far very few grass-roots or community-based organizations working in HIV/AIDS have been able to achieve registration under its provisions.

In addition to the associations, there are some Governmental decrees that contain guidelines regarding social and charity funds (Decree No. 148/2007/ND-CP), that encourage the development of non-public service establishments (53/2006/ND-CP) and that encourage the socialization of educational, vocational, healthcare, cultural, sporting and environmental activities (69/2008/ND-CP).

Following the State Budget Law came Decree No. 60/2003/ND-CP which provides greater clarity and guidance for the implementation of the State Budget Law. In Article 3, Item 2 of Decree No. 60, regarding regular expenditures, it states: *(l) support for local CSOs as provided by law.* In the spirit of this Law, there should be legal documents with more specific guidance to strengthen the civil society's participation by providing more "friendly" and easy-to-navigate registration procedures and making CSOs eligible to receive government funding.

With the amendments and supplements provided in the recent law regarding enterprise income tax there is an indication of growing interest in participation by PLHIV. Circular No. 123/2012/TT-BTC guides the implementation of articles in the Enterprise Income Tax Law, No. 14/2008/QH12, and implementation of Decree No. 124/2008/ND-CP, dated December 11, 2008. Governmental Decree No. 122/2011/ND-CP, dated December 27, 2011, promulgates details on how to implement articles in the Enterprise Income Tax Law. Article 1, Point 9 addresses expenditures that do not correspond to taxable income, It states that when an enterprise has actual expenses for the prevention and control of HIV/AIDS at a work place which is under the guidance of the Ministry of Health, the expense can be a tax deduction. *Such costs include staff training on prevention and control of HIV/AIDS at the enterprise, the cost of media activities related to the prevention and control of HIV/AIDS for employees of the enterprise, consultant's fees, examination and testing for HIV, and the general cost of supporting people with HIV who are employees of business establishments.*

Article 8 on income tax exemptions is also applied for income generated from vocational training designed for ethnic minorities, those with disabilities, children in especially difficult circumstance, recovering drug users, and PLHIV. In vocational training establishments that provide training for the other categories of trainees, their tax-exempt

income is determined based on the ratio of special categories of trainees to the total number of trainees.

Overall, for legal and policy framework to be well managed by CSOs in HIV/AIDS prevention in a sustainable and long-term basis, it is advisable that they review the relevant legal documents as they pertain to activities of civil society/CBOs and that they consider the level of tax-exempt income of enterprises organized by PLHIV. A positive step would be to allow CSOs to receive funding to provide services relating to HIV prevention, care and support in the community.



Figure 4: Interrelation among the legal documents regarding CSO participation

The greater involvement of CSOs in the response to HIV/AIDS would comply with the socialization policy of the Party and Government in the HIV/AIDS Law as well as in the National Strategy on HIV/AIDS Prevention and Control to 2010 with a Vision to 2020. It is considered to be an important step by domestic and international organizations, and a good opportunity for development.

However, for the time being, there are no legal documents to encourage or provide an enabling environment for the civil society/CBOs to have a more proactive participation in HIV/AIDS programs with a sustainable orientation. The HIV/AIDS Law and the accompanying decrees do not reveal the means to mobilize these organizations/groups by providing guidelines for registering to become a legal entity and operate, as provided by law.

Currently, there are no legal documents relating to establishing CSOs and/or any organization as a legal entity that can work with PLHIV and/or MARPs. There is, for example, neither a separate nor an amended legal document that addresses homosexual or transgender people. PWIDs and FSWs are considered criminals who are

subject to either administrative or criminal sanctions; homosexual and transsexual groups are not officially recognized by law. They are only mentioned within the limit of measures for HIV prevention. Despite the fact that there are legal documents about “associations” and “funds”, looking for a means towards practical implementation in order to (i) ensure civil rights in the establishment of associations in general (as recognized in the Constitution) and (ii) especially support to ensure the specific rights of PLHIV and/or MARPs, the relevance and feasibility of these legal documents are relatively low. The main reasons for this difficulty is the complex mechanisms that must be navigated in order to establish such an organization (compared to the free business mechanism provided by law on enterprises and cooperatives). Unless the entity is a business or cooperative groups that already has an adequate and clear legal framework that makes it possible to streamline the process of initial establishment and operation, the legal framework required of an association, a fund or a CSOs (including science and technology organizations) is quite complicated, with steps unknown and unknowable, with some overlapping and considerable inconsistency. Such a context means that processing an application is troublesome. As noted, very few groups have been able to achieve registration under the current legal mechanisms.

In HIV/AIDS Law, Article 19 “encourages” CSO involvement in HIV/AIDS activities: The State facilitates religious, non-governmental and other organizations to establish humanitarian and charity establishments to care for and treat HIV-infected people and carry out other HIV/AIDS prevention and control activities. Article 20, about PLHIV’s participation in HIV/AIDS activities: (1) PLHIV are entitled to participate in HIV/AIDS prevention and control activities; (2) The State encourages and facilitates HIV-infected people to participate in (a) Peer education groups, clubs and other forms of activities organized by HIV infected people in accordance with the provisions of law; (b) Propaganda activities and harm reduction intervention measures to prevent HIV/AIDS transmission; (c) Activities that support and care for HIV-infected people; (d) Contributing ideas for the formulation of programs, policies and laws concerning HIV/AIDS; and (e) Other HIV/AIDS related activities. These regulations are not powerful enough for the CBOs or self-help groups of the marginalized populations to participate more proactively or effectively in HIV/AIDS programs.

In reality, CSOs have two options to establish themselves as a legal entity: they can register as an independent or a dependent legal entity. Independent legal entity means that the organization is accountable to the law regarding all of its relationships. An independent legal entity has some rights: the right to self-determination, the right to manage your financial affairs, the right to engage in new activities, and other specific rights as provided by law, depending on the category of the organization.

Registration as a dependent legal entity means that the organization is dependent upon and responsible to its sponsor organization. Being a dependent legal entity could be useful if the organization is new, inexperienced and financially weak. It would expect help from its sponsor. Based on the legal regulations about each type of category and conditions of legal entity, there are seven types of organizations that are granted legal entity status:

- Associations
- Social funds, charity funds
- Science and technology associations
- Cooperative groups
- Business households
- Business/enterprises

Each type of organization has its own advantages and disadvantages. Depending on their own situation and goals, CSOs should make an informed choice that can lead to their own sustainable development.

It is necessary to continue the ongoing process of amending and supplementing legal documents to strengthen organizations' participation in HIV/AIDS activities in order to socialize HIV/AIDS prevention and intensify the sustainability of HIV/AIDS prevention programs.

Legal framework relating to the integration of HIV/AIDS activities into socioeconomic development programs

In the HIV/AIDS Law, provisions regarding the integration of HIV/AIDS into socioeconomic development programs are stated as follows:

Article 3: Implementation of multi-sectoral collaboration and social mobilization in HIV/AIDS prevention and control; integration of HIV/AIDS prevention and control activities into socioeconomic development programs.

Article 23: Integration of HIV/AIDS prevention and control activities into socioeconomic development programs.

1. *HIV/AIDS prevention and control is a prioritized objective of socioeconomic development programs.*
2. *The Government directs ministries, branches and local administrations to integrate HIV/AIDS prevention and control activities into hunger eradication and poverty alleviation programs, vocational training and employment generation programs, tuberculosis prevention and control, RH, STI and other socioeconomic development programs.*

Article 23 lists programs for which integration is desired but does not include integration with Population-Family Planning Program, an area where service integration may yield higher efficiency in HIV VCT for pregnant women, BCC in HIV/STIs prevention and control and condom provision.

Decree No. 108/2007/ND-CP details the implementation of some articles in the HIV/AIDS Law. Article 19 on the Integration of HIV/AIDS activities with socioeconomic development programs states:

1. *When developing socioeconomic development programs and plans, ministries, branches and local People's Committees shall integrate HIV/AIDS prevention and control activities into these programs and plans on the following principles:*
 - a) *Identifying specific indicators and activities related to HIV/AIDS prevention and control for People's Committees at all levels, and ministries and branches directly engaged in HIV/AIDS prevention and control activities or analyzing the impact of socioeconomic development programs and plans on HIV/AIDS prevention and control work performed by ministries and branches not directly engaged in HIV/AIDS prevention and control activities*
 - b) *Identifying funding sources for specific HIV/AIDS prevention and control activities*
 - c) *Defining the responsibilities of agencies, organizations and units that coordinate with local medical agencies in charge of HIV/AIDS prevention and control in performing HIV/AIDS prevention and control work*
2. *Socioeconomic development programs and plans of ministries, branches and People's Committees at all levels are approved only when they adhere to the principles set out in Clause 1 of this Article.*

This means this Decree stipulates only planning and does not provide guidelines for implementation or supervision and evaluation of implementation of this provision.

This integration is revealed in the Action Plan for HIV/AIDS prevention and control to be carried out by ministries, sectors, mass organizations and localities; in local socioeconomic development programs; and in the annual financial plans of ministries, sectors, mass organizations and localities, especially in such programs as hunger elimination, poverty reduction and vocational training.



Figure 5: Integration of HIV/AIDS activities into socioeconomic development programs

Additionally, there are no specific legal guidelines for the integration of HIV/AIDS activities into projects for infrastructure development or investment for production and business either in-country or abroad. Regulations regarding the HIV/AIDS component in a project should be considered, similar to the requirement for an evaluation of the socio-environmental impact on a locality.

Thus, policies and legal documents relating to comprehensive integration of HIV/AIDS activities into socioeconomic development plans, health care and social welfare programs are not sufficient to maintain and intensify HIV/AIDS activities in a sustainable orientation. The assurance of principles in integrating HIV/AIDS activities into socioeconomic development programs would make a considerable contribution to sustainable maintenance of HIV/AIDS activities in the context of the current economic recession in Vietnam. It is critical, pressing and necessary that this be studied and implemented in the forthcoming time.

XI. Review the implementation of the HIV/AIDS Law

These are the results and the analysis of data collected from IDIs and FGDs with key informants at the central level in the eight selected provinces/cities: Hanoi, Quang Ninh, Dien Bien, Ha Tinh, Da Nang, Dak Lac, HCMC and Dong Thap.

Policy makers highly appreciated the issuance of the HIV/AIDS Law and consider it to be an important step that reflects the profound interest of the Party, State and National Assembly in issues relating to health and society. The HIV/AIDS Law mentions most aspects of HIV/AIDS prevention and control. It creates favorable conditions for sectors and authorities at all levels to implement the Law in multi-sectoral cooperation as is their responsibility.

“A national strategy was developed - for the first time - and then there came the National Program of Action and the HIV/AIDS Law. All try to facilitate great actions by communities. However it’s only recently that policy framework has shifted towards an approach which is trying to refocus to bring together criminal policing and public health. Generally, it’s an effective program”. **P9-CS-Nam-52-TW**

The HIV/AIDS Law acts as the foundation for interventions, multi-sectoral cooperation at different levels and facilitates a more effective functioning of the HIV/AIDS system.

“Actually, it supports us very effectively. In HIV/AIDS prevention and control, there is the need for such things as psychological support, counseling and testing, treatment and syringe distribution. To tell you the truth, before the Law existed, it was impossible for a policeperson to find the rationale for his actions. One side is to prevent while the other side questions such things as “giving a hand” – that is, when we distribute syringes, it is said that we promote drug injection, or when we distribute condoms for SWs, it is said that we promote sex work.” **P1-CCDV-Nam- 48-HT**

Information collected from IDIs and FGDs with central policy makers, local leaders at different levels, service providers and beneficiaries all show that they appreciate the positive impact that the HIV/AIDS Law is having on the implementation of specific activities in HIV/AIDS, drug and sex work in the locality.

In eight selected provinces/cities research teams found that the dissemination of HIV/AIDS Law has gone relatively well at the provincial level. As instructed by the PPC, the Provincial Department of Justice (DOJ) regularly disseminates legal documents to relevant agencies

such as the Provincial AIDS Centers (PAC). Most of the articles in the HIV/AIDS Law have been implemented. Health workers involved in HIV/AIDS programs can list the provisions relating to their activities.

“I think, regarding the HIV/AIDS Law, that first, of course, the public agencies related to that law understand it. Besides, organizations or researchers related to HIV/ AIDS do research on it. Other people know little about it. They do not understand it. They know that it exists but don’t know what’s in that law.” **P19-CCDV-Nam-37-TW**

The HIV/AIDS Law is particularly interesting to PAC staff members because it is necessary for their routine work.

“...sectors and mass organizations, from healthcare facilities to the other agencies said that the HIV/AIDS Law was issued and became effective on July 1. As requested by DOH, not only PAC but also every healthcare facility and every healthcare worker and cadre has had to read the HIV/AIDS Law. Truly, I downloaded that Law from the Internet and in 2010 VAAC sent us this booklet. PAC distributed it to the relevant staff members in central and municipal government offices, and then to the district level offices and district healthcare centers. There is no written instruction from the DOH. But every staff member at the centers has to understand the law.” **P4-CCDV-Nu-44-DL**

However, when asked about legal documents such as decrees and circulars, people showed embarrassment and uncertainty. Even Decree No. 96/2012/ND-CP, dated November 15, 2012, promulgating MMT, and Circular 12 guiding the implementation of articles in Decree No. 96/2012/ND-CP seemed new and unclear to officials at the provincial level. In the provinces it appears that implementation has not yet started or was just recently started.

“I think I understand that the Law concentrates on certain things. First is the leading agency, e.g., sectors like health, labor-invalids-social affairs, mass organizations and education/training. I think people at the provincial and district levels have a chance to learn about this law, they receive more communication, so they know more about it. Regarding the current requirements of the Decree on HIV/AIDS, it spreads to the community but it’s limited in the district, especially in some target communes. E.g. the program from the Center, international organizations or programs from the province come to work and also to the town. But I’m not clear about objectives, roles or impacts.” **P13-LD-Nam-58-DB**

Lack of updated information about the law, i.e. legal documents, is a barrier to implementation. At this time healthcare workers at many health facilities do not know the new regulations regarding selection eligibility for the MMT program. They still require PWIDs have to get certification by CPC for civil status and approval. At the same time the

provisions in Decree No. 96 are very clear and an PWID just needs to present their ID card/passport, family registration or birth certificate to voluntarily join MMT.

The research team discovered that district and commune healthcare workers do not have updated information relating to legal documents or policies that apply to HIV/AIDS, drug or sex work. They note only some particulars that are made known, e.g. the S&D prohibition against PLHIV.

“I think that some people know, but only a few, while most people in the community don’t know about this. They might be vaguely aware but don’t know what their rights are under the law and they don’t know that they are to be protected under law. Many leaders do, and more active groups like those in the cities, but in the rural areas, I think they don’t know about it.” **P9-CS-Nam-52-TW**

When disseminating legal documents, most get sent through a vertical system to commune level leaders. The HIV/AIDS Law is broadly disseminated through the mass media and the commune broadcasting system but the results are limited.

“The group that knows most about this is the local leaders, from the commune leaders to the sectors, mass organizations at different levels. They are leaders so they know all about it. It’s good enough that the 30-40% of the local people know the law.” **P6-CCDV-Nam-53-DN**

In clubs for PLHIV and drug-detoxified PWIDs that are under commune management, relevant legal documents are more likely to be disseminated for the target groups to help them have a better understanding about their rights.

“This Law is more broadly disseminated now. In the monthly open meetings of the clubs, we invite target groups and we also integrate the contents, present their rights and obligations, implementation, to help them understand, have access and enjoy benefits, like free medicine. Such work is very effective and PLHIV feel more supported. Now they have good understanding about the law. When their children go to school, it is unacceptable for the school to ask them to have an HIV test. It is voluntary and confidential. So they have to accept that. It’s not a big confrontation.” **P12-HL-Nam-61-DL**

In HIV/AIDS VCT and treatment facilities: The research team did not receive any information about the dissemination of the law at VCT and treatment facilities. The material could be a simple leaflet about the HIV/AIDS Law that could be given to people that attend VCT centers. The contents in the law should also be included in the counseling that is provided at these facilities.

“I have not heard about the law. What I heard was something about support for PLHIV. We often visit PLHIV. We take them to healthcare facilities for a blood test and we help them prevent infection in other way. I have never heard about what the HIV/AIDS Law is” **N1-MT-ĐT**

Due to their of lack of knowledge about laws, marginalized groups seem to have an inferiority complex. They are unwilling, perhaps due to a lack of self-confidence, to try to get Governmental support in terms of healthcare service or social support.

“I think their knowledge and awareness of their legal rights and HIV/AIDS Law is very poor. They hardly know what rights they are entitled to have. Like the right to have access to ARV or MMT - they still apply the “asking-giving” mechanism instead of struggling and saying ‘I have this right. I have all required conditions so I am eligible for the program.’ Most of them do not have adequate knowledge about HIV/AIDS Law” **P1-CCDV-Nu-40-HN**

Interest of target groups towards legal documents is often specific. They want to know what their rights are and what the penalty is now for various behaviors. CBOs of PWIDs or SWs are very interested in this information to share with their peers and to protect their rights.

“I don’t read much and I don’t really know much. I am interested only in things relating to daily life, like drug control. I only know what is considered to be drug dependence and what I might get arrested for doing, would I get sent to a compulsory detoxification center, for how long, how the program is implemented in the community, the legality of the program, what CBOs can do and must not do, etc. I only want to learn what I think I need to know. I don’t read or hear much about laws.” **P4-HL-Nu-32-HN**

The target groups also recognized that their lack of knowledge about law makes them even more marginalized in the community, especially PWIDs or SWs because they are also liable to be arrested at any time.

“Talk about the Drug Control Law as it relates to PWIDs – when I did outreach work, I asked if anybody knew what the HIV/AIDS Law was. Most of them did not know. They didn’t know how to protect themselves. They are drug dependent but they also have something to protect. However, people like SWs here or PWIDs don’t know that there is a law so they can’t protect themselves.” **N2-HIV-HCM.**

For people in target groups who participate in social work in groups or clubs, accessing information relating to the law makes them more self-confident.

“I am also interested like that. However, in the past when I applied for a job or sat for a driving exam, I was afraid of being requested to have an HIV test by them and if they knew

my HIV positive status, they would not allow me to sit for the exam. Since I joined the club, I know more about the law, and I feel self-confident to sit for an exam.” **N3-HIV-DL**

When asked about PLHIV’s interest in legal documents relating to HIV/AIDS, they said they were interested in PLHAs’ rights, especially provisions relating to S&D prohibition.

“Yes, I heard about it on the radio. No discrimination against people with HIV/AIDS, no stigma. the Law says no discrimination... I heard that I help PLHIV be protected from S&D”
N1-MT-ĐT

However, regulations relating to PLHIV’s obligations are not seriously carried out, especially that of informing their spouse/sexual partners that they are HIV/AIDS positive.

“A few days ago, I visited Trinh. She just recently found out that she was HIV positive. She was scared, anxious and afraid that her family and work place would find out about her status. She was so scared because she did not know about the HIV/AIDS Law. She wanted to keep it a secret from her family and work place, from everybody. Another point is her obligation to inform. If the wife is infected with HIV, she doesn’t have to disclose that to others but she has to tell her husband. It’s her obligation. When I encouraged her to tell her husband, she said she would not. How can she keep hiding it? She has not told her husband.” **N1-HIV-DN**

It is rather common that PLHIV do not fulfill their “obligations” to participate in HIV/AIDS activities, especially the obligation to tell their spouse that they are HIV positive. PLHIV generally do not have the communication skills to do it. When in counseling they should be told clearly about the law as it relates to PLHAs’ rights and obligations. This is particularly important for newly detected HIV cases.

“Compared to HIV/AIDS Law, people in the community know the Drug Control Law better – it’s worse with HIV/AIDS and Sex work Laws” **P2- CCDV-Nu-38-HN**

When asked about dissemination of HIV/AIDS, drug and sex work laws at grassroots level, many officials in Dien Bien and Dak Lak said that commune-level leaders know little about the law because their access to information is very limited.

“That’s why knowledge of the local people in the commune is still limited, especially in the remote and disadvantaged areas. Although HIV/AIDS has spread to the community, knowledge about law and relevant legal documents in the remote and disadvantaged areas is especially difficult.” **P13-LD-Nam-58-DB**

Some people proposed that there should be IEC materials to disseminate the law written in local languages to help communicators in their work and help local people who are

members of ethnic minorities have a full understanding of legal provisions that affect their lives. This work should be done with ethnic minorities among whom illiteracy is high and many people cannot understand or speak Vietnamese.

Policies regarding HIV/AIDS are reflected in the HIV related programs and activities from the central to grassroots levels. However, due to many factors, the strength of program implementation greatly depends on local authorities' willingness to comply the law. HIV/AIDS activities are often done very effectively in the big cities, such as Hanoi and HCMC, where there is a relatively high incidence of HIV while the effectiveness is much lower in provinces/cities where the incidence of HIV is lower.

“About the strong points, that integration has it all, from the Party to the local authority to concentrate on HIV/AIDS. A weak point – not every person in this locality knows about it, or the HIV/AIDS Law. In this locality, the DOH tells the Party to bring the law to the communes and villages. From these sectors, they deploy to the inhabitants in the area. But they do not know everything about the law. Some people are not interested because only people in the areas where there are PLHIV are interested in it.” **P13-LD-Nam-58-DB**

A shortage of guidelines for the implementation of laws is an issue for many provincial leaders. Although legal documents cover the main points, specific guidelines are needed before there can be practical execution. Funding for implementation is one example. Responsibilities must be clarified.

“...HIV/AIDS Law specifically stipulates the responsibilities of sectors at all levels but supporting documents such as decrees and circulars or guidelines come too late. Decree No. 25 was issued promulgating guidelines for implementation. Then, it was a guideline about budget, and then harm reduction. Two days ago, I received a guideline saying that there are helpless orphans and people in especially difficult circumstances such as HIV infection – that’s the guideline I received for implementation. It’s very late.” **P13-LD-Nam-58-DB**

Joint circulars providing guidelines for implementation of legal provisions relating to many ministries and sectors do get prepared. However, it is difficult to develop circulars that require the agreement of many stakeholders and mutual consents are needed within each ministry/sector and among the ministries and sectors.

“Regarding HIV/AIDS Law, I don’t think it has anything to say. There are only 21 sentences, rather sufficient. About supporting documents, for each aspect – the condom program for example - I have no idea whether a joint circular has been issued or not. The condom program has a joint circular by MOPS, MOH, MOLISA, and MOCST.” **P4-CS-Nu-45-TW**

Provincial leaders felt it difficult to apply some provisions in their own context:

“We are in an especially difficult, remote and disadvantaged area. The Law does not mention any priorities in HIV/AIDS response that are especially for difficult, remote and disadvantaged areas. There is no guideline from the Center or a ministry about priorities in HIV/AIDS in these especially difficult and underdeveloped mountainous areas. Actually, the program already prioritizes, but it still needs a written guidelines by the Government, ministries on how to implement the law in such disadvantaged areas like this.” **P13-LD-Nam-58-DB**

Some regulations in the legal documents on HIV/AIDS should be clarified, One example is the recognition and acceptance of what is a full-blown AIDS patient. This is still being debated and this is particularly important in the context of ARV.

Article 42 applies to the Penal Procedure code: “MOH shall coordinate with MOPS, MOJ, the Supreme People's Procuracy and the Supreme People's Court and take responsibility for issuing detailed regulations on the recognition of full-blown AIDS patients.” It's impossible to do such a thing! Four “guys” sit together but they are still unable to complete it. Some provisions sound very funny! **P4-CS-Nu-45-TW**

The contents of M&E in the implementation of the HIV/AIDS Law are not mentioned in any document released by any agencies in charge of HIV/AIDS or any relevant sector.

“Actually, this law is rather good. The problem is the application of that law in life. To say the truth, laws in Vietnam are rather good, and rather comprehensive. However, the implementers and supervisors for law implementation are not knowledgeable. Of course, everybody has to be allowed to perform their function. If someone does something badly or wrongly, who will do the supervision or inspection? The law is not the problem, the mechanism for implementation and supervision is.” **P2-CCDV-Nu-HCM**

Specific M&E indicators should be developed for monitoring and evaluating the implementation of the HIV/AIDS Law in each sector, and multisectoral cooperation should be more efficient and effective.

“It should be repeated that cooperation among sectors and mass organizations to strengthen HIV/AIDS programs needs stronger and more drastic instruction. If there are the plans and instructions but we do not pay much attention to supportive supervision, especially regarding the responsibility of the sectors and mass organizations at the commune level to cooperate, some localities will not receive proper attention from the competent bodies.” **P3-CCDV-Nam-49-DT**

It is obvious that monitoring and reporting the implementation of law must be considered an indispensable component for local HIV/AIDS activities in order to identify problems and formulate timely solutions.

Harm reduction program

The legal framework regarding harm reduction in HIV prevention is being updated and completed. It will reflect innovative and progressive points of view and the concerns of the Party and the Government regarding HIV/AIDS.

“In general, the response to HIV/AIDS in Vietnam is done relatively well because although cooperation among the ministries and sectors is not the most enthusiastic there is common instruction from the Government. The Government has a Committee, and the ministries and sectors have to implement the policies by the Government. The reality is that the incidence of HIV has decreased and HIV prevalence has also decreased. Vietnam is praised as doing relatively well in its response to HIV/AIDS.” **P19-CCDV-Nam-37-TW**

In eight selected provinces/cities, the research team received information regarding the implementation of harm reduction programs in HIV prevention. Groups of peer educators were established within the framework of the National Target Program or by projects that provide interventions. IEC activities, VCT, referral, condom/syringe promotion and distribution for PLHIV, PWIDs, SWs and MSM have been successfully implemented.

“Local authorities clearly understand the harm reduction program and know how efficient the program is. They support and give instructions for implementation in their locality.” **P17-CCDV-Nam-58-HN**

Of course, resources are limited and there is a difference in political, economic, cultural and social conditions among provinces/cities, and therefore the success gained in harm reduction varies among the localities. In disadvantaged mountainous provinces like Dien Bien and Dak Lak, harm reduction programs are limited due to low investment by the locality and limited funding from international donors.

Multisectoral cooperation in harm reduction achieved remarkable progress

When asking about multi-sectoral cooperation in harm reduction interventions, the research team heard from most informants that multi-sectoral activities were organized and operated effectively at the provincial level.

“I think cooperation in implementation at the municipal is very good. For the time being, the municipal level has the Steering Committee. Everything relating to law has a steering committee. A multi-sectoral steering committee is set up to see to it that all levels, sectors and organizations share the responsibilities and roles in this work”. **P2-CCDV-Nu-38-HN**

This cooperation is more active in some focal agencies that have regular interactive activities. Examples are collaborations between Health and Education-Training, Health and Labor-Invalids-Social Affairs, Health and Public Security and Health and Women's Unions.

"Multisectoral cooperation that is done to concentrate implementation is clearly reflected in the instructions from the Central to local level. However, in practice, it is concentrated only in the sectors that have close relation, such as Education and Training, Health, Public Security, Labor-Invalids-Social Affairs, the Women's Union and the Youth Union." **P17-CCDV-Nam-58-HN**

However, this link is sometimes 'loose' and it happens only when there is some work that requires cooperation rather than an integration for an action plan or coordinating resources to benefit stakeholders.

"I can see that, in general, the ministries and sectors do not consider it to be important work. We should do it regularly. They often let others do the work and cooperate only when it is something that they must do." **P19-CCDV-Nam-37-TW**

Cooperation among many different agencies to develop relevant policies and programs requires a great deal of time and for this reason there are few joint circulars on HIV/AIDS. Reviewing more than 130 documents related to HIV/AIDS, the research team could find only seven joint circulars that were released after 2002.

"This has been done since 2000. The Ministry has made a plan for 2010-2015. And after that, during the implementation, there will be a thorough evaluation and survey with working trips to the provinces, and we will see that the provinces did their work very well. On that basis, we will then repeat the process and develop a joint circular, but with a proposal that four ministries will develop that joint circular. Starting with the Ministry's plan, it is then upgraded and becomes a joint circular. The reason for developing the joint circular is that MOCST is very self-motivated in introducing condoms in the lodging establishments." **P14-CS-Nu-40-TW**

According to statistics by MOLISA, the number of service/business establishments in Vietnam is 80,000, 25% of which (20,000 establishments) may be used for sex work. But these figures clearly represent drastic underestimates of reality. For example, Hanoi alone may have nearly 25,000 establishments may be involved in sex work. HCMC may have 30,000 such establishments and the disguised sex work aspect of these establishments is rising.

According to many respondents, carrying out harm reduction activities at these entertainment establishments cannot be done because of the lack of consistency in policies, especially that regarding condom distribution in entertainment establishments and hotels. Interestingly, when the owners/managers of these establishments are invited to take part in the implementation of condom distribution activities, they rarely show themselves. Instead they send one of their employees. It is really difficult to deploy in every entertainment

establishment. Many of the owners of these establishments understand the significance of the harm reduction program but they do not wish to take part because it might mean a drop in paid sex activity and a corresponding decrease in their income.

The new Law on Handling Administrative Violations became effective on July 1, 2013, and under it SWs are liable to pay a fine but will no longer be sent to 05 centers. In this case, there should be more powerful interventions to support SWs to allow them better access to harm reduction services, meaning condoms and STI services.

“It seems that SWs are not being arrested any longer. I think it has spread everywhere. They’ve become very smart now...they’re like normal people. This is not like in the past. Some time ago, some policemen try to track down sex workers, and they used to continuously search in karaoke lounges... It doesn’t happen now. These people know how to avoid being apprehended. They hide themselves very well so policemen do not behave like they did. They are not so strict about it. So, FSWs do not have problems with the local authorities.” **P1-HL-Nu-37-DT**

It used to be that condoms were considered evidence of sex work if they were present in an entertainment establishments or hotels. However, thanks to efforts made in response to HIV/AIDS and the vigorous development of the “100% condom program”, the health and public security sectors in some places now have “common voice” about not just condoms but sex work itself.

“The city had several meetings about this issue. But I do not know the number of the circular or correspondence. There were bilateral meetings like that and finally, both sides agreed that a condom would be considered evidence if the policeperson saw it in actual use. If the condom was in a pocket or in a hotel cupboard or drawer, it could not be used as evidence. This means that only a ‘wet condom’ can be taken as evidence (i.e. caught in the act) but it is not evidence if it is found in a pocket.” **P1-CCDV-Nam-51-HCM**

Strong participation by Culture-Sports-Tourism sector also contributes to this remarkable change in the harm reduction approach to prevent HIV/AIDS transmission through sex work. Following the implementation of MOCST’s pilot project that requires condoms to be available in hotels and lodging places, it received positive feedback from both local authorities and the owners of entertainment establishments.

“Beside other channels that provide them free of charge, MOCST wants that it to be considered normal goods. That means it is somewhat like a toothbrush, toothpaste or a bar of soap. It’s very normal and it can be sold normally. It is considered to be a product to be sold in a service/business or an establishment as a normal product. That’s what it is reflected in this plan.”

P14-CS-Nu-40-TW

The success of this pilot project was necessary before a joint circular involving, MOH, MOLISA, MOCST and MOPS, will be issued about condom promotion and use in the lodging establishment, hotels and places of entertainment. This creates a legal environment that favors the 100% condom program.

Implementation of Methadone Maintenance Treatment is limited due to conflicting legal documents governing the prevention and control of HIV, drugs and sex work. As reported by MOPS, there are about 200,000 drug users in the country. Before 2012, MOLISA established many drug detoxification centers at a total cost of hundreds of billions of VND per year. However, it has not been an efficient investment. The proportion of returnees who relapse is very high while the number of people who succeed in staying off drugs is low. Recently, the State changed its strategy toward drug use and tentatively conceded that drug use and drug dependence is a disease rather than a social evil. If drug dependence is considered a neural disease, drug users should be receiving medical treatment rather than 'cold turkey' drug detoxification in a closed setting. New models are being developed by MOLISA to improve the drug treatment system throughout the country.

In line with the renovation of drug treatment proposed by MOLISA, MMT is to be more broadly applied under Governmental Decree No. 96-2012. At the same time, drug users are governed by the Amended Drug Law (2008), the HIV/AIDS Law (2006), Decree No. 96 (2012) and the Law on Handling Administrative Violations (2012). However, police and local authorities have targets to meet regarding numbers of PWIDs to be sent to compulsory drug detoxification. In many cases, PWIDs cannot access MMT as they would like because their names are on 'the list' for compulsory drug detoxification.

"The police cooperate well in guiding the implementation of harm reduction interventions. However, there are still constraints in achieving the targets set for compulsory drug detoxification and MMT." **P17-CCDV-Nam-58-HN**

On the other hand, according to Decree No. 96/2012 (Article 21), those PWIDs who are getting MMT must be expelled from treatment if they re-use heroin or other drugs. This provision is not reasonable because Methadone can only treat drug dependence syndrome but cannot always eliminate the 'craving for the high'. Moreover, drug treatment is a long-term process that requires patience and relapses are expected and predictable. PWIDs should not be forced to undergo forced detoxification in 06 centers if they are found to relapse.

"They still arrest people as usual. Now the police have 4-panel instant urine dip drug test cards. A person can be arrested and sent to a detoxification center if they are found to be using Methamphetamine, even if they never take heroin. The centers are enlarged

because they've started to arrest many drug users." **N1-MT-TW**

This might indicate that due to targets set for compulsory detoxification, drug dependent people are more likely to be committed to a compulsory detoxification center and less likely to have access to a community-based drug detoxification or MMT center. The need to implement many laws in a synchronous manner is proving to be difficult. This is a concern of local leaders.

"Within the law, there is the problem that conditions for implementation of the law face difficulties, meaning limited resources. That's the biggest problem. Second, it would be better to merge all of these laws together and integrate the Drug Law with the HIV/AIDS Law with the Sex Work Law." **P13-LD-Nam-58-DB**

The inability to implement the law is a constraint felt in many localities. With this there is a lack of effective monitoring, which has a negative effect on marginalized groups like PWIDs.

"That's what is stipulated in the laws. However, what is important is the executers. Regarding the order for compulsory drug detoxification, many cases were called in for administrative review and they were just fined at that time. Some years later, when PWIDs are detoxified, their profiles are still kept in the police office. So, whenever the police meet them, they will arrest them" **N3-MT-HN**

In those provinces/cities where an MMT program is not available, there are many difficulties in terms of infrastructure, human resources and cooperation between health care personnel, the police and DOLISA. There is much to do and little agreement in terms of selection of priorities to carry out an MMT program, especially because Decree No. 96 and Circular 12 are not yet fully implementable.

Syringe distribution/exchange for PWIDs, broadly implemented in most localities, meets resistance by local authorities and elements of the community.

Many people still consider drug use to be a social evil with an adverse impact on the health and economic life of individuals, families and the communities. For this reason, drug control programs are often looked upon with favor by the community. Harm reduction interventions, including syringe distribution, may receive a negative reaction from people who see it as 'giving a hand' to drug abuse.

"I think nearly nobody opposes condoms. However, there is the opposite opinion for syringe distribution as they believe that syringe distribution encourages drug use." **P19-CCDV-Nam-37-TW**

However, with the consent and support of the local authorities at all levels in the implementation of the HIV/AIDS Law and Decree No. 108/2007/ND-CP, the harm reduction program is being carried out in most provinces/cities in the country, leading to a change in multi-sectoral cooperation to combat HIV/AIDS.

“I don’t see a conflict or mutual exclusion regarding this issue. In the past, when the healthcare sector distributed syringes to PWIDs, the police tried to arrest them – they arrested the drug smokers and the injectors. On one side, PWIDs want to inject less while the other side distributes more syringes. Actually, syringes have many advantages. They do help prevent HIV transmission from one person to another” **P2-CCDV-NU-48-DB**

Clean syringe distribution for PWIDs is accepted by most localities but it takes time for the health-police collaboration to operate harmoniously without obstacles to implementation.

“At the beginning, in the meetings of the stakeholders of the city, there was the desire to involve the police. The police did not participate at the beginning, but after that, when PAC talked about the intervention for harm reduction, the police cooperated nicely and there was no conflict between these two sectors. I saw one obstacle at the beginning when some guys who were opposed to it shouted, “Why should we provide for them while other people try to destroy social evils?” After that, a meeting was organized to talk about the purpose of our work to help them understand. Since then, the police have cooperated well with the healthcare people and there is no obstacle now.” **P10-CCDV-Nu-50-DT**

Condom promotion and distribution are easier for the community to accept than provision of clean syringes.

“Of course everybody encourages each other to use condoms to prevent HIV and some STIs so they are necessary and need less explanation than syringes.” **P6-HL-nam-51-QN**

In some localities, due to their own regulations on social security and safety, the distribution of condoms and/or syringes to target groups has met with opposition. In June 2009, the Da Nang PPC approved the proposal submitted by the Department of Investment and Planning (DPI) to revise the city’s ‘five zero’ objectives but to retain the “5-Zero City” program for the 2009-2015 time period to achieve the following objectives:

1. Zero poor households according to the city poverty line
2. Zero dropouts from the city’s Primary and Lower Secondary schools
3. Zero vagabonds and beggars
4. Zero drug addicts in the community, and
5. Zero murderers in the course of robbery

To achieve each objective, the sectors in the city developed projects to implement the “5-Zero City” program, including the objective of “zero drug addicts”:

- 100% of the city’s citizens are to be knowledgeable of the Drug Control Law and the negative impacts of drugs
- Organize drug detoxification and rehabilitation for all drug dependents and relapsed cases who are detected
- 100% detoxified PWIDs are managed in the community by law
- Control the proportion of PWIDs: < 0.05% population and a rate of drug dependence relapse of 50% every year
- Maintain “purity” (zero PWID) in every public agency, administrative and technical agency, school and the armed forces.
- Strive to keep the existing healthy communes and set up 1-2 more healthy communes without the social evil of drugs.

With the regulations above, PWIDs in the community had to find ways to hide themselves and avoid the harm reduction program for HIV prevention.

“In the past, condoms could not be distributed in Da Nang because Da Nang means no drug use. Later, there was not that problem as it was already solved. Condoms use was allowed then.” **P6-CCDV-Nam-53-DN**

Total market approach in condom and syringes distribution to ensure goods security is now needed.

Item 1 of Article 8 and Item 1 of Article 9 in Decree No. 108/2007/ND-CP clearly state that free condom and clean syringe distribution should be available for target groups through harm reduction ‘programs’ or ‘projects’. These articles are not really relevant at this time. Free distribution has, for a long time, restrained the development of a total market approach including social marketing and retail sales. On the contrary, it has created dependence among the target groups as well as waste and loss during implementation.

“Actually, I have no idea how much money has been spent to purchase condoms, paid for by the State or organizations, but I think when condoms are distributed for free like this and it suddenly stops, the current users will be bewildered. When they can no longer get free of condoms, they’ll feel disillusioned and lose trust in the programs. That’s the question and it is not sure if they’ll buy condoms in the pharmacies or not.” **P6-HL-nam-51-QN**

Free condoms are considered to have dual utility for the prevention of pregnancy and HIV/AIDS. As reported by General Office of Population and Family Planning (GOPFP), the number of condoms needed for FP from 2011-2020 is 2,147 million of which 256 million are to be provided free, 140 million condoms are to be obtained through social marketing and about 1,751 million condoms are to be purchased in the marketplace. The State Budget, including ODA, covers the cost of condoms for pregnancy prevention plus free provision while social marketing covers only 18.5 % of the cost (about VND 238 billion), the remainder is provided by the market. After 2020, it is planned that social marketing for condoms will be ended. By that time, condoms will be distributed for free only to the poor households and in disadvantaged areas, and the rest must be purchased on the free market.

According to VAAC-MOH, funding to purchase all condoms for HIV/AIDS before 2010 came from donors. From 2004–2009, most of the funds came from the Department for International Development (DFID)–UK and the US President’s Emergency Plan for AIDS Relief (PEPFAR). The amount of funds that donors have spent on condoms for HIV/AIDS programs has been huge. From 2004–2009, about 24 million condoms were provided either free or through social marketing. During that period, free provision and social marketing of condoms for the National Program on HIV/AIDS was done in 29 provinces/cities. Since 2010, the National Program on HIV/AIDS has allocated funds from the State Budget to purchase condoms for those provinces/cities that require condoms for their HIV/AIDS activities. According to a calculation by VAAC (MOH), after 2009 it was expected that there would be a large shortage of funding to provide condoms for HIV/AIDS programs (calculated for interventions among FSWs). The deficiency was said to be about 168 million condoms for 2010 and 188 million condoms for 2011. From 2011 to 2014, the only source funding for condoms is PEPFAR which provides condoms for HIV/AIDS activities (40 million condoms provided free and 22 million through social marketing).

When asked about condom acceptance and distribution for HIV/AIDS prevention, many localities said that the number of free condoms they are getting has dropped considerably and they are setting up a social marketing system for condoms to be used in their HIV/AIDS prevention programs.

“The condom program in the past provided condoms free of charge for the target groups. SWs were the main recipients while waitresses in entertainment establishments and PWIDs received these condoms as well. They were the main target groups for which we have interventions. Condoms were given to them for free. But, since May 2012, social marketing of condoms has begun.” **P1-CCDV-Nam-48-HT**

Free condoms become rarer due to the limited supply while social marketing of condoms has not become a clear strategy of HIV/AIDS agencies.

“I think that some years ago, about 1 year ago or so, outreach workers distributed a high number of condoms. In the last few years, it seems the projects phased out or something, so there are less available. It’s not the same as in the past.” **N2-MSM-TW**

The number of condoms distributed does not satisfy the need of the target groups but it seems that localities have no specific strategy to fill this gap.

“Truly speaking, there are only 200,000 condoms for my province while there are 9,000 PWIDs there... In the whole province, and other in districts, in remote areas, PWID group need even more. It depends on each area. However, PLHIV have to find their own. So, distribution here satisfies only 10-15% of the need. Needy people have to satisfy their unmet need from the other sources.” **N3-MD-DB**

The rate of condom use among FSWs is not high¹⁰, especially when they have sex with a steady sexual partner.

“Although they’ve learned about this many times, women oftentimes forget to use condoms when they have sex with sentiment. Otherwise, they know that they should use a condom every time they have sexual intercourse, and at the onset of sex. Everybody is clear about that message, and with the way to use a condom. However, when it comes to sentiment, they insist on no condom.” **N1-MT-TW**

MSM groups do not get sufficient attention when it comes to interventions in the National Program on HIV/AIDS. Also, according to a 2012 UNAIDS report, the rate of condom use among MSM engaging in anal sex was only 66.4%.

“PACs have national guidelines. They know the number of condoms and lubricants needed for MSM but if they are not available, they don’t know where to go. The HIV/AIDS Law is very general. When it is integrated, there will be national guidelines designed for SWs and PWIDs. They can work separately to aid MSM but they would not be as strong. In the end we have to support each other, find clubs and groups that are to benefit from the projects and give them a smaller number of condoms.” **P9-HL-Nam-40-HN**

The total market approach regarding the sale of condoms should be encouraged and used in the future. The total market approach is one in which all channels (public health services, private channels and NGOs or marketing that is funded) integrate to form a “market” segmented according to the clients’ ability to afford the product.

¹⁰ 2012 UNAIDS report: Rate of FSWs who used a condoms in their last sexual intercourse was 77.7%

Total market approach aims to ensure the following:

- *Growth – constant use and a creation of new users*
- *Equity – for all target groups of all socioeconomic strata including the poorest and most vulnerable group*
- *Sustainability – financially sustainable because the need will increase over the long term*

The total market approach will enhance the growth of the whole market, create new clients and increase the level of use among target groups. The market is segmented into groups that have similar characteristics with regard to needs and relative strength of each channel (commercial, social marketing, public-sector health services, NGOs, etc.) which are exploited to maximize the efficiency of total market approach and allow each channel to concentrate their resources to intervene and serve the most needy target groups.

Thus far, condom sales in the free market have undergone positive changes. Many shops display and sell a number of brands of condoms and become the condom suppliers for different groups of users including the most populous groups of clients, the SWs and MSM.

“They are being sold in public. Shops sell condoms and even label their shop with ‘OK’. They sell OK brand condoms and they sell fake ones, too. They aren’t afraid of anything. All brands of condoms are sold out there. They sell high-class brands, and it’s normal that they sell each condom for VND 5,000-6,000, and some even with more than VND 10,000. Some that are more than VND 20,000 a condom are a high-class brand with dots and various flavors. These condoms are scented and thin. I gave people brands of condoms that are rather thick. They told me that if I gave them to them for free, they would use them.” **P1-HL-Nu-37-DT**

The quality of the free condoms provided by HIV/AIDS programs is not ensured and that has reduced the efficiency of the program while social marketing or a free condom market approach is not properly mentioned.

“I want to discuss condoms. Condoms provided by PAC are unusable. They’re too ugly and the quality is poor. To be honest, I don’t know much about other provinces, but where I live, condoms are also used in the tourism, hotel and restaurant system. That means that condoms are placed in every restaurant and hotel. It’s the rule. However, every one of these condoms is provided by an HIV/AIDS program. I went around to see what was happening and I saw that these condoms were not being used because the quality was too low.” **P10-CCDV-Nu- 52-HCM**

Since 2010, with the involvement of MOCST, the presence of condoms in lodging places

and hotels has been encouraged and is public. It has the consent and support of the society, including the owners of these establishments.

“The actual implementation also faced obstacles, especially when the HIV/AIDS program wanted that condoms be available in hotels and lodging places. The owners of these places worried about it because police consider condoms to be evidence of prostitution in these places. However, after these owners were invited to talk to people from the Provincial Department of Culture, Sports and Tourism (DOCST) and the Provincial Department of Labor, Invalids and Social Affairs (DOLISA), they heard about how it was a part of the HIV/AIDS program, they become less worried about condoms use or their being put in their business.” **P1-CCDV-Nu-52-QN**

The regulations on compulsory availability of condoms at establishments mentioned above is necessary and more important than free condom provision for FSWs because SWs can afford to buy the kind of condom they want. This also lightens the financial burden to provide free condoms as part of the program.

“I am sorry. But in the past FSWs were people who stood along the side of the road and they used such cheap condoms when they made only VND 3- 4 million per month. Nowadays FSWs do massage. I mean high-class massage and services. High-class call girls don't use cheap condoms. They make VND 20 million, 70 million, maybe USD 6,000 per month. So, it's a big waste of money and energy to be giving them condoms.” **P10-CCDV-Nu- 52-HCM**

For years, GOPFP/MOH had projects on social marketing for condoms and projects in goods security for contraceptives/FP including condoms. VAAC should integrate the condom component of HIV/AIDS prevention into these other projects to avoid the overlap and wasting of resources. In addition, a total market approach should also be encouraged to promote the sustainable development of harm reduction programs.

Participation of civil society organizations in HIV/AIDS activities

The CSOs mentioned in this report are voluntary organizations that have the following features: (1) They benefit and respond to the needs of their members; (2) Membership in these organizations is totally voluntary and (3) Such voluntary organizations do not function as a part of the government.

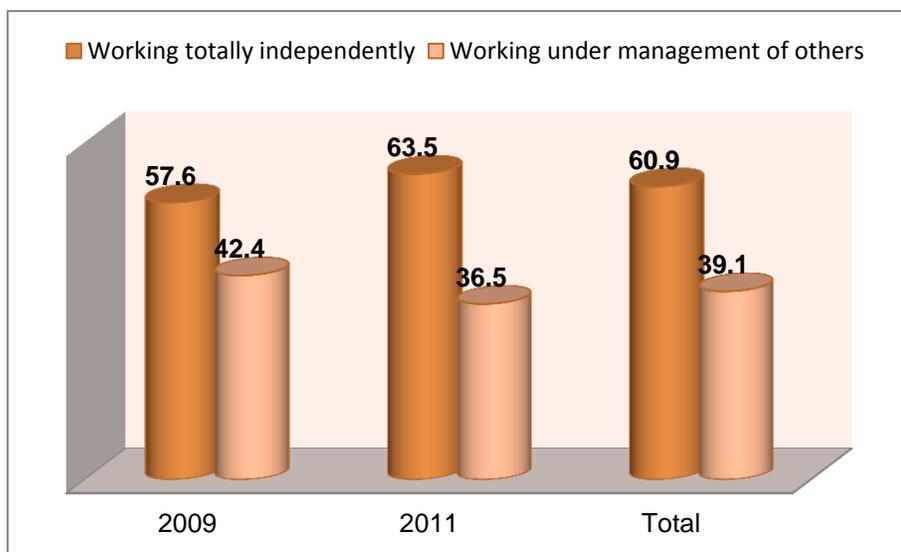
First, CSOs are non-profit organizations that are established and operate under the management of Vietnam Union of Science and Technology Associations (VUSTA) or other government or umbrella agencies. The Vietnam Community Mobilization Center for

HIV/AIDS Control (VICOMC), established in 2004, was one of the first Vietnamese non-profit organizations to be involved in HIV/AIDS in the country. At this time there are about 30 registered NGOs and hundreds CSOs actively working in HIV/AIDS activities in Vietnam.

Additionally, there is a strong force of hundreds of community-based organizations/groups, religious organizations/groups, self-help groups and networks of PLHIV, PWIDs, SWs and MSM that have been set up and actively participate in HIV/AIDS activities in the community. Some projects funded by international organizations concentrate on capacity building for these self-help groups and enable them to develop in a sustainable orientation.

A survey was done in late 2011 to examine the participation and need for legal entity registration of self-help groups, working CBOs and faith-based/religious organizations in 10 provinces/cities: Hanoi, Bac Can, Vinh Phuc, Hai Duong, Nghe An, HCMC, Ba Ria-Vung Tau, Binh Duong, Can Tho and Vinh Long. The survey was administered to 129 community-based groups/organizations and it was discovered that only four groups had registered as a legal entity. About two-thirds of the groups that are not registered are operating totally independently and they say that they wish and expect to register as a legal entity sometime in the future.

Figure 6. Operation forms of self-help groups in 2009 and 2011¹¹



Community-based, self-help groups

Many community-based, self-help groups have been recently established, they have an unstable organizational structure and their membership numbers are low. In general, the educational level of group members, including that of the group leader, is low, and for this

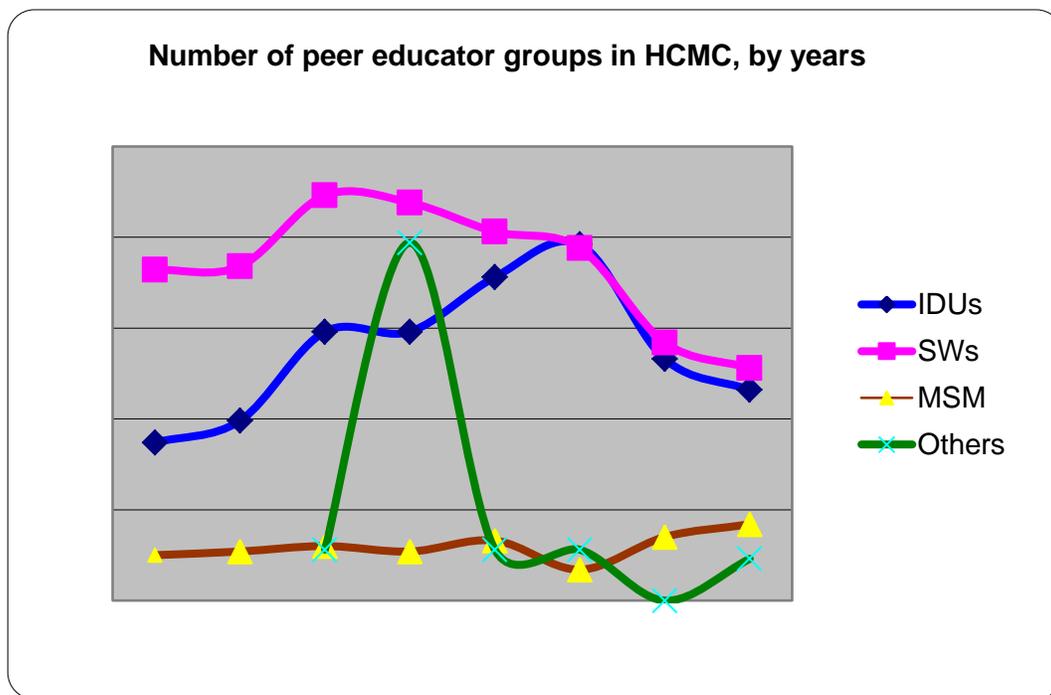
¹¹ VUSTA, 2011.

reason they find management and financial matters difficult to handle. Most newly established groups prefer to registration themselves with the local authority, local sectors or mass organizations so that they can registration as a legal entity. Some groups believe that if they have PAC-issued outreach worker cards they will be seen by potential clients as outreach work with authority, knowledge and resources. However, due to their general lack of these same qualities, some of these groups have not gained the trust of the local authorities and so they find it difficult to register as a legal entity.

Peer educator groups

Currently, PACs rely mostly on peer educators to approach target groups for harm reduction or treatment. The activities of these groups are covered by project funding. These groups are created to satisfy the specific needs of an intervention project and they can be dissolved when the projects end. There has been a gradual decrease in the number of peer educator groups (targeting PWIDs and SWs) that are being set up by projects in HCMC due to the reduction in funding for projects from the international community.

Figure 7: Development tendency of peer educator groups for interventions in HCMC by year



For the local authority and sectors

- At the time of this review only one support or counselling center in Vietnam was willing to provide information about legal registration. Content counselling and training at this center concentrates on HIV/AIDS Law, decrees relating to PLHIV rights and obligations, and S&D prohibition against PLHIV.

- Most of the local agencies and sectors that were interviewed expressed little interest in HIV/AIDS activities and they did not know much about self-help groups or the activities of these groups. A few agencies had heard about registration but they were not aware of the decrees related to the process of registration for legal entities.

PACs in the eight provinces chosen for this study do provide technical support and sometimes provide training for self-help groups but this has been limited. Training courses organized or facilitated by PACs focus mostly on capacity building for self-help groups or peer educators that are associated with PAC or Vietnamese/International NGO projects/programs.

The continuous growth and development of Vietnamese NGOs, networks, community-based self-help groups and religious groups has created a strong social force that makes a considerable contribution to HIV/AIDS activities in Vietnam, but the challenges and problems associated with achieving legal registration remain significant barriers to CSOs assuming their rightful place in the HIV/AIDS response in Vietnam.

Most key informants at the central level, in contrast to those at provincial and local levels, said that they highly appreciate the participation of CSOs in HIV/AIDS activities. Community-based organizations/groups of PLHIV and vulnerable groups are established to satisfy the needs of the individuals in those groups and they are having a positive impact in reducing S&D.

“Social organizations have flexible activities. They might approach SWs or PWIDs to implement the harm reduction intervention program in HIV prevention. They have programs to support victims and affected people. These organizations are able to approach hard-to-reach target groups for public organizations. It’s an important supplement to the efforts made by public agencies in response to HIV/ AIDS.” **P19-CCDV-Nam-37-TW**

Policy makers have also recognized the role of social organizations in HIV/AIDS programs. Their participation is indispensable because they provide support directly to the community, HIV prevention services, home-based care to PLHIV, counseling and referral for needy people to help them reach facilities that provide testing and treatment, and to provide access to legislative and other social support.

“The role of social organizations in response to HIV/AIDS is very important. The State alone is unable to do it. Especially, in Vietnam nowadays, the issues related to HIV are being shared by the social organizations. I can see that these social organizations exist in the north but in the south there are many charity establishments that have been created by kind-hearted people, and there’s the charity work being done by the pagodas. They set aside areas that are used to provide care for AIDS infected people. For PLHIV, beside medicine, the most important thing is psychological support. If everything is put on the

shoulders of the State, can it be done? There are people who give their humane hands to do this work. I see many of them in the south.” P11-CS-52-TW

The fact that policy makers at central level clearly understand the role and contribution of social organizations in response to HIV/AIDS is extremely important in creating more favorable policies and an improved legal framework for the activities of these social organizations. However, as noted above, this understanding lags behind at provincial and local levels.

Provisions about mobilization and the promotion of social organizations’ participation in HIV/AIDS activities are reflected in the law. However, the documents lack specific guidelines on how to mobilize and promote their participation. Thus, most of these groups receive no support from their localities.

Every social organization involved in an HIV/AIDS program has to get involved with a program, project or Association (like the WU or HIV/AIDS Association). Social organizations involved in the HIV/AIDS program will be or are now in difficulty in terms of resources because many of the donor-funded projects are phasing out.

In HCMC, self-help groups and community-based social organizations are finding it difficult to implement programs, projects and activities relating to harm reduction because most of them are not registered legal entities and therefore have no legal right to carry out operations.

“...I talk about involvement of the community but I know that with the involvement of the community or CSOs, there is no guidance from local authorities on how and what to do, or how you define a social organization. Without being a legal society, many CSOs, particularly those from the most affected communities, are not recognized and they find it very hard for them to be involved” P9-CS-Nam-52TW.

Provisions about mobilizing and promoting the involvement of social organizations in HIV/AIDS activities are reflected in the HIV/AIDS Law, but they are not specific. Social organizations and community-based groups are often marginalized and it is not easy for them to choose a path to become a legal entity.

“Actually, in the legal framework now, I think it is not true that we do not let them establish organizations with legal entity. However, there are many forms of organizations, like a science and technology association that requires scientists. I think social organizations have something they can establish. If this association or that one wants to protect their rights, it should not be necessary to have to do scientific research. Of course, that legal framework is still unclear.” P9-CS-Nam-52-TW

MOHA is in the process of formulating a law on establishment of Associations but issues relating to social management are being debated so this document is still in the draft form.

“Actually, it would be very good if a certain law is passed, such as a law on Associations. I spent about 2.5 years studying social organizations to learn each detail of each point. Then I thought how this point should be changed and why it should be changed, etc. You know that it must be carefully done like that. It was developed by MOHA and that time it was on the 13th draft.” **P1-CS-Nu-55-TW**

There is a lack of specific guidelines on registration for legal entity and operation and so social organizations and community-based organizations/groups find it hard to access international funding sources, resources from kind-hearted individuals/organizations or State funding.

“I think the biggest challenge for social organizations is financial resources. To implement activities, the law encourages organizational activity. However it is really difficult for social organizations to get access to State budget capital. Only a few organizations have access. Most organizations have to find an external resource but external resources are oftentimes unstable so it is very difficult. I think it’s the biggest difficulty for social organizations”. **P19-CCDV-Nam-37-TW**

Given that many community-based groups of PLHIV and vulnerable groups are marginalized with members who are poorly educated and have poor leadership skills, they are looked upon favorably by neither donors nor public agencies.

“Actually, it’s because many public agencies do not trust the social organizations. I think social organizations should make themselves understood better. Secondly, the State should organize public bidding and select the best ones. If it’s well done, we will work with social organizations, there will be many chances. When there are many organizations, some with scientists and prestigious and talented people as members, I think if bidding is done in public, many organizations will be able to do well.” **P19-CCDV-Nam-37-TW**

Many suggest that social organizations, especially community-based groups, register to become branches of a Provincial HIV/AIDS Association. This is one choice that could be made by a group. However, if they become a branch, they then depend on the Association but it is seen that branches receive little financial or technical support from Associations.

“I think these groups should join the network of the national HIV/AIDS Association in their locality because when they’re in those associations, the members, individuals or organizations can participate as members of the association. These groups cannot register for legal entity but they can register to join those associations. The associations have

organization programs for members that are in groups in the community” P19-CCDV-Nam-37-TW

CBOs do not have many options to obtain legal registration. Most do not have sufficient economic, human resource capacity or ability to register under a science and technology association under the umbrella of VUSTA, although VUSTA always keeps the door open to these organizations.

“We discussed legal entity for several years and it was very difficult. First, if it is to be a legal entity of a Vietnamese NGO under VUSTA, we must first have VND 200 million. This VND 200 million can be gotten from a few dozen members in my group but the requirement that there be five university degrees among us makes it impossible for us. In my group, only one person has university degree.. We really wanted to register for legal entity but maybe not under VUSTA because that is very difficult for CBOs to do” N1-MT-TW

The term ‘Vietnamese NGO’ is not to be found in any legal document. The operating budget for these organizations relies on funds allocated for programs/projects (mostly from international donors) so the sustainability is not high. These organizations are not allowed to raise fund for their activities. This is far different from the practices of International NGOs which can and do raise funds for their own activities.

“Currently, according to law, only organizations that are called “funds” are eligible to hold fund raising activities. Organizations called NGOs cannot. In our laws, there is no term for Vietnamese NGOs. They are called science and technology associations or social professional organizations, but no organization is known as an NGO. Actually, all of these organizations are NGOs and non-profit organizations but we divide them into various types of organizations. Each type has its own regulations but only those called “fund” are eligible to have fund raising activities. Other organizations are eligible to receive grants only” P19-CCDV-Nam-37-TW

There is no legal framework to ensure the work done by CSOs or any official mechanism to recognize their existence so that they can be clearly named and then contribute to the community, in response to HIV/AIDS, for example.

“That means that there is no clear shape for them. It is similar to their having existence in the world and they need a birth certificate and legal entity. They come into life but they do not need something like a company or a cooperative that requires a seal. What they need is the power of their impacts and they sacrifice the whole of their life to communication. However, they do not have legal entity so that other people would trust in their ability to communicate. They only expect that as they work for the community, they rely on the community and should be able to have legal entity to work. For now, because our laws are not clear regarding associations, they exist in a spontaneous way.” P1-CCDV-Nu-40-HN

Policy makers need to create a necessary policy and legal framework for the development, support, and funding of all types of CSOs including local NGOs in Vietnam.

In the survey form that was sent by the research team to the eight selected provinces/cities, the space reserved for 'number of Vietnamese NGOs/community-based/self-help groups' was often left blank. When asked about this, the representatives of PAC simply could not list or provide information about social organizations or CSOs. In some provinces, like Dak Lak, self-help groups are not recognized except for a few peer educator groups that have been set up within the Life Gap and Global Fund projects.

"There are many groups, but they are not linked. We do not find the opportunity to meet. Due to the specific features of Dak Lak, Buon Me Thuot is politically sensitive and, if someone wants to set up a group, they have to report to the People's Committee and they must have a name. Like in my group, there must be local people. It does not mean that we do not recruit people from other localities, but there must be the assurance by the other local authority for the group. When they cause a problem, the consequence for members is very high." **P10-LD-Nam-57-DL**

Regarding public governance, there are also questions about M&E and management of the activities of Vietnamese NGOs. This is an issue that PAC should look at. There should be an overall vision of all HIV/AIDS activities to better manage the whole network rather than being concerned only with the activities of agencies in the public system.

"I think there are two things that are not being thoroughly done. First is the management of all activities and services done by NGOs. In practice, we cannot manage it all. Second is the use of resources from the other countries or mobilized from different resources. In fact, we do not control these resources effectively. To address these points, many discussions have been held, looking for a common solution. I think it does not exist so far." **P11-CS-52-TW**

Social organizations and CSOs are still 'excluded' from the public system even though their activities are rather strong and attract the attention of many people. For different reasons, social organizations are not valued, managed or supported by public agencies or local authorities.

"[CSOs]... are not properly valued and no agencies/organizations have taken the responsible to be a sponsor. Beside NGOs, no agencies stand up and let them share their official entity so they can operate. Even without the legal entity paper or seal, they should be given legal status to act and talk with the sectors, mass organizations and in the community." **N1-MT-TW**

Some local leaders recognize that involving social organizations is one way to expand the socialization response to HIV/AIDS.

“Another point is that the guideline for socialization of the implementation of HIV/AIDS law is low. It is socialization but what socialization specifically is, whether it is successfully done with participating organizations, international organizations, and then call for resources from not only the State for prevention and control. But to be specific for socialization, Dien Bien province is still limited.” **P13-LD-Nam-58-DB**

To be officially recognized, social organizations and community-based self-help groups have to be legally registered, but in fact it seems rather difficult because there are no guidelines from local authorities or relevant agencies.

“When I went there, I said that civil society has rights that have to be established and provided by law. But it does not mean that they are established and quietly work. They should report to the local authority. The local authority should also support them in terms of material support, if possible, or spiritual support otherwise.” **P8-CS-Nu-50-TW**

The fact that self-help community-based groups are not recognized as an indispensable component in the response to HIV/AIDS at the provincial and local levels limits their access to resources for local HIV/AIDS projects. They are only ‘hired’ by PAC to do some work relating to the group’s activities on certain special occasions.

“Voluntary groups will never be provided with a budget because it is against the State Budget Law. We support them by finding ways to encourage them, for example the group of the Ngoc Thuy commune recently or the Thuc Thanh group. When we have a seminar or activity, we invite the members to participate. I can support them in this way or any other way. But it’s impossible to provide a budget for the activities of those groups.” **P11-LD-NU-53-HN**

Participation in or becoming a branch of the HIV/AIDS Association would not much help PLHIV groups gain access to the limited resources of the locality. The PLHIV groups are not ‘managed’ by the Association. The Association holds the purse strings and it does not normally want to share this funding source.

“Actually management of the association is voluntary. Only when the HIV/AIDS Association finds a source of funding for its branch does the HIV/AIDS Association have the authority to do ‘managing’, like requesting reports, etc. The city provides funding to the Association so that we can organize activities in the same way as PAC does for its activities, or the city, but it’s not for activities of the branches” **P7-CCDV-Nu-49-HCM**

Many people who were interviewed said that they would like to see social organizations and CSOs get more involved in HIV/AIDS activities in an equal, public and transparent way if they were really competent and could prove it.

“Social organizations and other official organizations can join the bidding in a public and equal way. I think it’s the most democratic and equal way. You should not differentiate if they are public or non-public organizations. The most competent organizations that are able to use the State Budget the most effectively will be provided with funding. It would be very good if we could do it this way. Civil organizations have to develop human resources with the best staff to satisfy the requirements. However, the State should provide them with a favorable environment to do so.” **P8-CS-Nu-50-TW**

It is through the PACs that many social organizations and community-based groups expect to have their link to the Government’s HIV/AIDS system and funding. They also would like recognition for their contributions to the community.

“If PAC acts as the bridge, that means putting the work done by the groups in reports rather than stating that it is done by PAC. Actually, PAC does not do as much as the community groups. PAC may do it at a higher level when the groups do not know. At community level, it is done by the community. However, what the community does is not known by people from other places.” **N1-MT-TW**

In some places, PACs have become the mainstay for activities of self-help groups although the groups’ activities are not are not officially organized or part of the system, or as having been done by social organizations.

“Currently all self-help groups and other peer educator groups in Da Nang have to register with PAC. They often use PAC’s name to operate. They say that they are collaborators of PAC, otherwise it’s impossible for them to work” **N2-MSM-DN**

PAC should be linking with and sponsoring self-help groups in addition to providing them with technical support and guiding them through the legal registration process to develop a network and have greater involvement with social organizations, community mobilization and socialization in response to HIV/AIDS.

Integration of HIV/AIDS programs into socioeconomic development programs

In most of the provinces/cities covered by this review, the Committees for the Prevention and Control of HIV, Drugs and Sex Work have instructions in the policy framework relating to integration of HIV/AIDS program into local socioeconomic development plans but this is not carried out on a broad scale and there are no specific guidelines.

Some provincial leaders said that the legal framework/policies regarding the integration of HIV/AIDS programs into local socioeconomic development programs are perhaps adequate. However, there are no specific guidelines about how much money from the local budget (in the general socioeconomic plan) can be used to implement HIV/AIDS program integration.

Integration of HIV/AIDS programs into local socioeconomic development programs is a good concept but at the grassroots level, the integration that is done is a formality that is not done effectively.

“If my memory is correct, there is regulation about this issue. That means, in addition to the law, some documents from the Government also stipulate that when developing socioeconomic development programs/plans of localities or sectors, integration is a must. However, it is just for formality if it is done. Even when this integration is effective as per requirement of integration, it is not much. Why so? It’s because there are many things to integrate. In these activities or others, there are also some things to mention, e.g. integration in the issues relating to population mobility such as the migration from rural areas to the cities. Accompanying that are concerns about housing, healthcare services, water supply, electricity supply, family registration, education and integration with the issues relating to HIV. However, in fact, it is not simple like that because without this HIV program, the situation is extremely complicated and it is a real burden. Now with such integration, I don’t deny its existence during the application of the program. It also exists in the program in the locality. But if it is put into practice, the efficiency is low.” **P11-CS-52-TW**

In the absence of specific legal regulations, the means to effect an effective integration of HIV/AIDS activities into socioeconomic development programs have not yet been formulated.

“The integration of the HIV/AIDS program into socioeconomic development programs is carried out by the different levels and sectors but the current plan is general, not specific.”

P17-CCDV-58-nam-HN

At the grassroots level, with the many competing efforts being made to develop a civilized community, it is very common that general administrative orders are given which dictate norms to be applied to the commune level.

“Clusters of households make every effort to see that drug use does not spread in their immediate living area. The number of drug dependents is clearly managed and it is not getting higher. An annual review is done to compliment or reward good behavior. If someone in the cluster does something not good, the group will not be rewarded. Integration into local socioeconomic development programs requires the cluster to do that

thing. It is similar to sex work. The locality is told to make sure that no prostitution is detected in their area. If it is, the party branches, clusters, and mass organizations try to tell the people to stop doing that because if they go down that path and someone finds out about it, they will be arrested, and of course our group's reward will be reduced, as will that which the party branches and clusters might have gotten.” **P10-LD-Nam-57-DL**

Many people said that there should be stronger coordination between the local authorities at all levels to strengthen multi-sectoral cooperation in HIV/AIDS prevention. Despite the existence of the Steering Committee for the Prevention and Control of HIV/AIDS, Drugs and Sex work at different levels, the sectors still act with separate orientations. Multi-sectoral cooperation really needs leadership by the local authority at all levels.

“I think there should be synchrony among the sectors in the implementation of laws. e.g., if a vertical system like PAC does this kind of thing, they will understand it very well. However, when working at the commune level, they have to work with CPC. Between two sectors, if it is PAC, it has no right to influence the People's Committee. If they want to influence CPC, they have to influence the District People's Committee (DPC). And similarly, if they want to influence DPC, they have to influence PPC. It follows a vertical system like this. PAC has no right to demand cooperation of all levels. That's why the implementation of law is very difficult. PAC is the agency that has the best understanding about HIV/AIDS. The People's Committee works on administrative governance. They only manage. Two horizontal sectors cannot instruct one another. They do not have the right to do that.” **P1-CCDV-Nu-40-HN**

Strengthening the instruction by the local authority at different levels would be further improved by monitoring and supervising the integration of HIV/AIDS activities into the local socioeconomic development programs. A shortage of funds will reduce the coverage of programs that provide syringes and guidelines for use, programs that provide condoms and guidelines for their use, and MMT. As a consequence, the number of people from high risk groups accessing these programs will decrease. As a result, the achievements gained in controlling the HIV epidemic may be difficult to maintain and the epidemic is likely to have another outbreak. A report on financially sustainable solutions for Vietnam in 2011 shows that according to global statistics, every USD spent for prevention saves USD 8 for treatment. Research done in many countries shows that every USD spent for the Methadone program will save USD 7.

The program of providing substitution treatment has, since 2008, reduced the rate of drug use and HIV prevalence, along with drug related crimes, and it has saved about VND 80 million per patient per year. If by 2015 the budget is sufficient to treat 80,000 PWIDs, the estimated total amount of money saved for patients and families would be about VND 6.4 trillion per year. On the other hand, if there is no budget to maintain and expand the programs, the patients will have to discontinue treatment. It will cause unpredictable

consequences in terms of security, society and economic loss due to the probably relapse of patients who discontinue their treatment.

“Money spent for HIV/AIDS activities comes mostly from international funding sources through projects while the human resources which implement the projects are mostly recruited private staff members. At this time, the model is in a transition process so it faces difficulties regarding the budget and human resources.” **P17-CCDV-Nam-58-HN**

Local leaders understand that it is necessary to integrate HIV/AIDS activities into the local socioeconomic development programs. Although limitations on local resources represent a major barrier, it is noteworthy that there are no specific guidelines to address this shortfall.

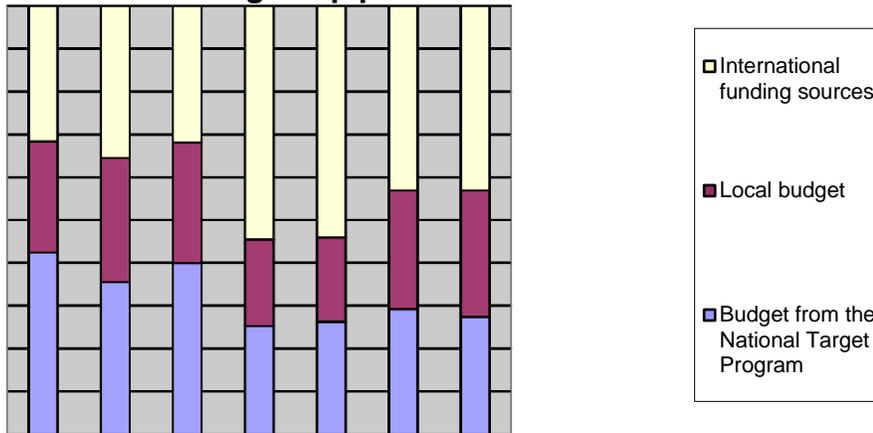
“To tell you the truth, what is stated in the law has been studied rather sufficiently. However, I understand the problem in the integration of the HIV/AIDS program into local socioeconomic development programs. Regarding this issue, Dien Bien realized that this is one of the targets in HIV/AIDS prevention. But, how to integrate this? Secondly, where are the resources to come from? Dien Bien is a province with an economy on the bottom rank in the country. Being the poorest province, to be honest, there is no support from the provincial budget. Funding comes mostly from the Center, the target program, international organizations....” **P1-CCDV-NAM- 53-DB**

The source of funds needed to maintain HIV/AIDS activities at a time when support from the international community is declining represents an unanswered question and major concern for disadvantaged provinces/cities with a limited local budgets and a reliance on the Central level. Some projections about the possibility of an increasing the number of new HIV cases or limited harm reduction have been considered.

“There’s an internal difficulty: Nowadays, the resources that had been coming from the Center have started to decrease while the localities are not prepared to gradually replace the funds that are being cut back by donors. The challenge is to keep activities unchanged and achieve the targets while the budget is limited. Even though there are other solutions, the Ministry’s solution for this is to use legal budget capital. Localities are also to use this supplemental budget capital but, as it is the first year we are implementing this work, I think the progress of some activities, some indicators, will be difficult to achieve.” **P3-CCDV-Nam-49-DT**

Figure 8 presents the budget levels from different sources for the response to HIV/AIDS in a province with little external investment. It shows that the local budget and budget capital from the National Target Program make up about 60% of the total amount to be spent on HIV/AIDS programs. With a budget of about VND 10 billion per year, Dong Thap is a province that is having difficulty implementing harm reduction interventions for MARPs.

Figure 8: Budget allocated for HIV/AIDS in Dong Thap province



There is no proactive inclusion of HIV/AIDS activities as a component of local projects for infrastructure, business or service development

In IDIs with the provincial key informants, no mention was made of socioeconomic development projects with an HIV/AIDS activity component at the workplace except for the huge project like Smart work, Nike, JBIC and ADB. The integration of HIV/AIDS activities into basic construction and infrastructure projects is getting little attention even though migrant laborers are a target group of HIV/AIDS prevention.

“There is a gap that I think the enterprises do not fill. In places like construction sites, there are often many migrant masons with a high risk of getting this infectious disease. However, in these enterprises, things are not clear for them, they have something like a short-term labor contract. They come to work as masons, and then move to some other place when the construction work is completed.” P4-CCDV-Nu-38-HCM

When asked about ‘integration’, the key informants expressed different understandings. Some local leaders said that it was impossible to include HIV/AIDS activities in the plans of each sector.

“This integration is an integration of responsibilities of the sectors in HIV/AIDS which means some sectors, and this is because the budget of the HIV/AIDS program is very low. If we do not integrate, we cannot work.” P9-LD-Nam-43-DB

Some sectors are interested in integrating the activities of their sector with the activities of other sectors to achieve common objectives.

“We are the standing office in drug prevention and control. Another department in

MOPS is in charge of HIV/AIDS. However, when I work in this area, I recognize that knowledge and integration of the HIV/AIDS program with requirements of work is very important. We work in drug prevention and control but if we do not integrate the objectives of HIV/AIDS, it is certain that harm reduction will not be synchronous or the synchrony will not be strong. There's knowledge about the work, and responsibility, and these two things are good combined." **P7-CS-Nam-54-TW**

There could also be an integration of IEC activities with that of WU, YU or other mass organizations' activities. This is the type of 'integration that was most commonly mentioned in IDIs.

"Yes. Health programs have integration, and social affairs programs also have integration in them. The YU and WU also integrate for communication and propaganda." **P6-CCDV-Nam-53-DN**

Integration is reflected in the common plans to prevent and control HIV, drugs and sex work according to the policies and common instructions by the local authorities at all levels.

"We do this work separately, but now they want us to do it together, combined with crime prevention. We are making plan to provide instructions to the districts and communes. Integration is now done with many programs. Actually, the HIV program has been done mostly by the healthcare sector since it started." **P2-CCDV-NU-48-DB**

In practice, much of the integration of the HIV/AIDS program with other programs is done in the localities, however, there are many differences in the actual implementation at different localities, between different programs and between the different parent bodies.

"I think Lap Vo district is also interested in integrating with the socioeconomic development programs. There could be integration between the HIV/AIDS program and the education program, the HIV/AIDS program with hunger elimination and poverty reduction, the HIV/AIDS program with national security, and integration with some other programs. It's very interesting but I forget. Also an integration between the HIV/AIDS program the credit program of WU, I can also see that." **P7-CCDV-Nam-49-DT**

The research team did not receive any information about specific activities of localities to integrate HIV/AIDS activities into local socioeconomic development programs. In this case, there should be specific guidelines so that provinces/cities can integrate in a more effective and practical way.

There is a pressing need to maintain the sustainability of HIV VCT and treatment in the general context while reforming Vietnam's healthcare system after 2015. The merger of PAC into a Centers for Disease Control and Prevention model is one option of MOH.

Integration of HIV/AIDS control with the available services in the RH system including FP/STIs/RTIs services, and mother and child care in antenatal and postnatal care is also of interest to MOH. With technical support from UNFPA, some integrating models are being developed and pretested by the Department of Maternal and Child Health to be implemented on a broad scale in the coming time.

An integration of STI/HIV services with MCH services will reduce the cost by sharing of human resource, infrastructure, and equipment, managerial and administrative work. Regional experience shows that the cost effectiveness of linking HIV and FP services will solve the unmet need regarding FP/contraceptives for women living with HIV.

In practice, in the implementation of the FP program, health workers often integrate IEC activities with HIV when they talk about the advantages of condom use for the target groups.

“In the FP and population program, we also integrate to help women reduce their unwanted pregnancies to match the State’s standards on condom use. Condoms use also reduces harm and prevents infection.” **P2-CCDV-NU-48-DB**

In some projects, integrated IEC activities for different target groups covered FP and HIV/AIDS. People cannot mention condoms without mentioning their dual functions: preventing pregnancy and HIV/STI transmission.

“We have integrated into the FP program. In the past, we had a project on Hanoi women’s health. In that project, there were health educators and peer educators. We conducted communication and propaganda work and went to hotels and guesthouses to approach FSW who were at high risk to give them condoms and IEC materials. We also organized IEC sessions, group meetings in the community, medical examinations and counseling about infectious diseases.” **P2-CCDV-Nu-38-HN**

The HIV/AIDS Law has been amended and there will be circulars promulgating specific guidelines about payment for medical examination and treatments for PLHIV. Thus, successful integration of HIV/AIDS, RH, and FP services would represent important progress in achieving a more sustainable HIV/AIDS response.

“This means our legal tools are almost adequate. However, technical guidelines for implementation are not available. That’s why MOH recently began its plan: first, develop a circular providing guidelines on payment for medical services for PLHIV who have health insurance cards. This circular will mention or solve some problems, such as reasonable referral for patients and the revised regulations relating to referral of normal patients is different. Now there is different procedure for referral of normal patients with health insurance because and a chronic disease because each locality has limited facilities for

patients to access HIV/AIDS treatment, so we have to create the best opportunity for them”
P6-CS-Nam-48-TW

Strengthening the linkage among HIV/AIDS, MCH, RTI/STI and FP programs will be implemented at various levels: (1) policies, (2) programs and (3) services. This program integration is an MOH policy that is being implemented by VAAC and the Department of Mother and Child Health Care across the country until 2015.

XII. Recommendations

1) Recommendations regarding amending and supplementing legal documents on HIV/AIDS

Legal documents in HIV/AIDS

- HIV/AIDS Law stipulates those acts which are prohibited. It should also provide regulations or a basis for regulations so that sanctions can be applied to violations. At the same time, the agencies/organizations that are to be responsible for detecting and handling violations in this field should be identified.
- For there to be consistency between practical applications, documents of the Ministry of National Defense (MOD) and Decree No. 108/2007/ND-CP, a clear orientation should be identified. All jobs in national security and defense require good health and the young recruits are trained in a strict, regulated manner. Thus, Decree No. 108/2007/ND-CP should reconsider and clarify the list of “special” occupations for which a compulsory HIV test is required.
- Harm reduction interventions or measures for S&D prohibition naturally conflict and exclude one another. It is very difficult to harmonize legal documents to strengthen harm reduction interventions, HIV/AIDS prevention and S&D prohibition. There are always opposing ideas. However, it has been seen that strengthening education on HIV/AIDS-related knowledge, including improving social morals, is the most effective solution to achieve the overall objectives. For this reason, regulations relating to HIV/AIDS counseling should be strengthened and expanded.
- Currently, lawmakers in Vietnam have not yet determined whether they recognize or oppose homosexual relations. Because of the current need, a clear regulation regarding the homosexuals and homosexual relations should be issued. Implementation of HIV/AIDS activities involves working with homosexuals and a clear legal regulation providing for prevention interventions for this key population is critically needed.
- A regulation clarifying the path for PLHIV self-help groups and networks to obtain legal entity registration should be issued to facilitate community support and involvement in HIV/AIDS activities.
- A specific regulation about the organizational structure of the Support Fund should be issued for PLHIV to ensure transparency.
- Integration of FP and HIV programs should be specified clearly.

- A declaration of prioritized target audiences for IEC activities, which includes adolescents and people with disabilities, should be issued.
- A gender-based approach should be applied by highlighting the role of women and women's organizations in the development, planning and implementation of HIV/AIDS policies at all levels, but especially at the commune level. Update measures for STI prevention for women, such as the inclusion of female condoms to enable women to protect themselves without relying on their sexual partners.
- Results from VAAC surveillance in Vietnam show that the proportion of women living with HIV/AIDS in Viet Nam is on the rise, especially among women of reproductive age. This points to an increased potential risk of HIV transmission from mother to child during delivery and breast-feeding. HIV testing for antenatal women is critical and should be added to the legal regulations.
- The HIV/AIDS Law should clarify harm reduction interventions. At the same time, Decree No. 108 should be consistent with the HIV/AIDS Law regarding the regulation on harm reduction interventions.
- To facilitate education, communication and dissemination of law on HIV/AIDS in general and outreach workers' activities in particular, regulations that apply to outreach workers' activities should be included in the guidelines for administrative inspection to enable the inspectors to understand their work and avoid the conflict which arises when 'one says yes but the other says no'.
- Revise the statement in Article 7, Item 1 (b) of the HIV/AIDS Law to: "*Encourage the distribution/provision of condoms, clean needles and syringes (syringes) and the treatment of opiate addiction with substitute substances for those specified in Article 5 of this Decree.*"
- With each penal decision, there should also be a mechanism to ensure the enforcement of that decision. Without a precise mechanism for enforcement, a guilty party cannot, in practice, be punished and therefore the regulation virtually does not exist. To ensure that the intention of Article 4 in Decree No. 69/2011/ND-CP on Handling Administrative Violations in preventive medicine, health environment and HIV/AIDS prevention and control can be carried out, lawmakers should put in place a clearer and more specific enforcement mechanism. In this way Article 4 can become more than just a 'paper-only law'.
- Legal documents should be issued that stipulate specific measures, policies and services especially designed for SWs, and PLHIV as well, to facilitate their reintegration into the community.

- Remove Article 10, Decree No. 108/2007/ND-CP to ensure the participation of relevant sectors, especially the labor-invalids-social affairs, public security and defense sectors, in providing substitution treatment services for needy people.
- Circular 96 (Chapter VI) should include provisions to improve the accountability of medical treatment establishments in those cases where they issue treatment registration documents and a referral to drug dependence treatment. The medical establishment should issue the necessary documents to their parent bodies but they should also be required to inform the patient of impending admission and test/treatment results by providing copies of treatment records, referral slips and receiving records in accordance with Article 19 of the Circular. This will ensure the rights of patients, and protect them from delays and harassment when they follow procedures to change their drug dependence treatment or treatment facilities.
- Supplement certain articles in the HIV/AIDS Law:
 - Add provisions that will strengthen HIV voluntary counseling and testing (VCT) for pregnant women
 - Supplement provisions relating to PLHIV's obligation to inform their sexual partners/spouse of their HIV status to avoid being accused of wishing to "purposely transmit HIV to other people." Add: Should it become known that a PLHIV failed to inform their sexual partners/spouse after knowing of their condition for 3 months, healthcare workers will seek out and inform their sexual partners/spouse
- Remove some provisions in the HIV/AIDS Law:
 - Remove the regulation listing the occupations that PLHIV are not allowed to have because it is too difficult to apply. On the other hand, remarkable progress has been made with ARV treatment which prolongs PLHIV's lives
 - Remove the regulation stating that full-blown AIDS patients have the right to refuse treatment to avoid the risk that people might lose the opportunity to have access to treatment

2) Legal documents in drug control relating to HIV/AIDS

- MOLISA's Renovation Plan for drug treatment should be effectuated through revision of legal and policy documents and possibly development of a new law on addiction treatment, to move Vietnam decisively away from reliance on compulsory detention and detoxification to a comprehensive system of voluntary, community-based, and evidence-based drug treatment.

- Thorough consideration should be given regarding reasonable treatment for drug use to avoid stigmatizing this subject group in the eyes of their community. In addition, it is better to encourage PWIDs to get voluntary community based treatment than to subject them to compulsory detention and detoxification, which is ineffective and a violation of their human rights.
- Be consistent when using the technical terms “*Opiate dependent*” and “*Drug dependent*” to avoid the possibility of two different judicial systems being applied to the same subjects – those who are drug dependent.
- Prevention of HIV transmission in the course of drug injection should be more thoroughly considered. First, competent state agencies should design comprehensive programs in which syringe distribution and collection are considered equally important to avoid negative impact on community life. Second, strengthening legal IEC activities should be done not only with local people but also with local authorities in order to reduce PWID stigma and discrimination against PWIDs, and to involve PWIDs in HIV/AIDS prevention and control activities.
- Revise the regulations regarding drug dependence treatment to exclude those subjects who join MMT programs after completing compulsory dependence treatment.
- There should be specific guidelines on harm reduction measures for those with drug dependence that match those in the HIV/AIDS Law.
- Remove Article 10.1 in Decree No. 108/2007/ND-CP to ensure the participation of relevant sectors, notably the Labor-Invalids-Social Affairs, Public Security and National defense sectors, in providing MMT services for needy target groups. Competent agencies should consider allowing MMT in 06 Centers.
- Addictive substances should be differentiated from the harmful effects they can have. From this base, competent authorities should determine a treatment that is appropriate to the particular drug that each subject is using. Carrying out an identical detoxification process for dependence on all kinds of drugs should be avoided both because it is ineffective and because it violates the freedom of the subjects undergoing treatment.
- Revise the regulation in Article 2, Item 9 in the Drug Control Law. This regulation states that “*legal activities relating to a drug*”, which includes research, appraisal, production, transportation, maintenance, storage, trafficking, distribution, use, exchange, import, export and transit of the substance as stipulated in Items 112, 413

and 514 in Article 15, are permitted by public competent authorities as provided by law. If a revision is to be made regarding legal activities relating to a drug, it should include harm reduction interventions for HIV prevention, considering the implementation of harm reduction interventions as legal activities. In addition, communication about and the distribution of clean syringes will not be considered a violation of the law.

- To avoid confusion in determining whether the commune people's committee (CPC) or the Provincial Department of Justice (PDJ) is to certify a patient's application form, the requirement that one have a 2nd certificate, the 'Does not belong to a target groups that is subject to obligatory dependence treatment as stipulated by law' certificate, as stated in Annex 8, Circular No. 12/2013/TT, should be removed. Reason: i) it is a troublesome regulation which represents an authority conflict between CPC and PDJ and ii) this regulation distinguishes between those going in for dependence treatment voluntarily and those who are being forced to undergo treatment. This distinction is unintentional and unnecessary.

3) Legal documents that address sex work and HIV/AIDS

- Allow the Chairman of the PCP to have the authority to handle administrative sanction regarding the possession of a license or permit in Article 15, Decree 178/2004/ND-CP.
 - Clarify that harm reduction for SWs is done to prevent HIV infection.
 - Clearly stipulate specific support that is available to SWs, which will include employment opportunity and prevention of social diseases, including HIV/AIDS through sex work. At the same time, the responsibilities of the CPC to support SWs who have complete administrative sanctions as they integrate into the community should be clarified.
 - Add a separate article about the principle of combining sex work control and the prevention of drug addiction and HIV/AIDS infection in the Sex Work Ordinance which matches that in the HIV/AIDS Law.
 - The Sex Work Ordinance should be revised in the spirit of the Law on Handling Administrative Violations and the HIV/AIDS Law. Specifically, the Sex Work Ordinance should contain more specific regulations about the responsibilities of the owners of restaurants, hotels, and other entertainment establishments to provide harm reduction services, meaning condoms, to create consistency and synchrony
-

within the judicial system with regard to HIV/AIDS prevention and control, a measure which will increase the efficiency of interventions.

- The Sex Work Ordinance concentrates on SWs and is not concerned with their clients or the organizers of sex work, such as “madams” and pimps. The Sex Work Ordinance should introduce clear punitive sanctions for the clients and the organizers of sex work. To coincide with international commitments, UNCRC 1989 recommends that child SWs be considered victims and should not be punished.
- The Sex Work Ordinance should clarify the regulation regarding the integration of IEC into HIV prevention activities, specifying target groups, noting those which are prioritized. It should be the responsibility of IEC agencies to instruct the mass media regularly, and to conduct IEC sessions on HIV and integrate sex work programs with AIDS programs and other IEC programs.
- Repeal Government Resolution No. 5, dated January 29, 1993, which is about sex work hindrance and control, because it is not relevant in the current social context.
- The Sex Work Prevention and Control Project was specified in the National Assembly’s “Law and Ordinance-Making Program” in 2013. Thus, *now is the time to develop a Sex Work Prevention and Control Law* in the spirit of the Law on Handling Administrative Violations and with a harm reduction approach.
- Revise the exclusive regulation in Article 2 of the Sex work Ordinance to state explicitly that condom selling and distribution in hotels, guesthouses, lodging settings, etc. is not to be considered evidence of carrying out or facilitating sex work or to be the basis of police extortion of bribes from SWs.
- A separate Article should be devised presenting the principle of sex work prevention and control that stipulates close cooperation between HIV prevention and control, and drug and sex work control. It will act as a base for the development of other content in the Ordinance and will express more clearly the Party and Government’s point of view regarding the prevention and control of social evils.
- Specific responsibilities of relevant organizations and agencies should be identified as they carry out their assigned duties to ensure the integration of education on the prevention and control of HIV, drug use and sex work
- The Sex Work Ordinance should be complemented with articles that stipulate measures such as employment opportunity and prevention of social diseases including HIV through sex work and add the CPC’s responsibility to support SWs as they attempt to integrate back into the community.

- Revise Governmental Decree No 178/2004/ND-CP, dated October 15, 2004, with detailed articles taken from the Sex work Ordinance. Definitions and explanation are needed for inaccurate or unclear terms and concepts in the Ordinance. The regulation in the Ordinance which mandates sending violators to medical treatment establishments should be expunged.
- Revise the regulation on administrative sanctions to bring it into compliance with the Law on Handling Administrative Violations. According to Article 2 of National Assembly Resolution No. 24/2012/QH13, guiding the execution of the Law on Handling Administrative Violations, re-education in commune is no longer to be applied to SWs.
- IEC measures should be strengthened to disseminate laws and complement regulations about providing counseling on HIV prevention and control, and counseling on STIs as found in Decree No. 61/2011/ND-CP.
- Remove the provision in Article 3, Item 1, Governmental Decree No. 163/2003/ND-CP, dated December 19, 2003, promulgating the execution of educational measures at the commune level as an administrative sanction imposed on SWs.
- Remove the regulation in Article 3, Item 1, Governmental Decree No. 142/2003/ND-CP, dated November 24, 2003, regarding the application of the administrative sanction which requires them to be sent to educational centers. Also remove Decree No. 66/2009/ND-CP on amending and revising articles in Decree No. 142/2003/ND-CP and Decree No. 118/2010/ND-CP because they are inconsistent with Resolution No. 24/2012/QH13.
- Issue documents presenting policies that support SWs in their integration into the community, that deploy harm reduction interventions, and that introduce models that will help former female SWs reintegrate back into the community.
- A list of health problems (noting the severity of each illness/disease) needs to be made and sent to medical treatment establishments. Legal regulations regarding sex work of SWs and sexual clients who are homosexual, transsexual and male should be supplemented. The concept of sex work should be clarified in the 2012 Law on Handling Administrative Violations and the definition of selling sex and categories of SWs should be revised.
- Revise the Ordinance on Sex Work Prevention and Control and Decree No. 178/2004/ND-CP, dated October 15, 2004, to make them consistent with the HIV/AIDS Law and the Law on Handling Administrative Violations.
- Revise the regulation relating to harm reduction and condom distribution. This proposal is to ensure the implementation of Article 16, Item 2 of the HIV/AIDS Law to insure that the owners of restaurants, hotels, entertainment establishments, boats,

tourism and other social and cultural services cooperating with the agencies in charge of HIV/AIDS in the locality to conduct communication on HIV/AIDS prevention and provide suitable harm reduction services in HIV prevention for the service users in their own setting, especially with regard to condom distribution. Do not consider condom distribution or sales by hotels, guesthouses, lodging places, and other entertainment establishments to be a form of aiding or abetting sex work. Do not consider the presence of condoms in the pocket to be evidence of sex work. Legislatively, it should be clearly and consistently recognized that condom distribution, use or presence in “sensitive” places (hotels, guesthouses, tourist and lodging places, entertainment establishments, etc.) is not evidence of sex selling or buying. The question is consistency among the competent authorities and synchronous cooperation of all sectors and forces in the fight against social evils.

- Article 3, Item 2 in Decree No. 178/2004/ND-CP, dated October 15, 2004, should be amended to state that condom distribution, use and presence in hotels, guesthouses, entertainment establishments, tourism centers, etc. are part of a comprehensive harm reduction program in HIV prevention and are not ‘*giving a hand to sex work*’.

4) Other legal documents relating to HIV/AIDS

- Joint Circular No. 02/2006/TTLT-BCA-BQP-MOH-TANDTC-VKSNDTC guides the execution of some legal regulations about the suspension of prison sentences for those who have full-blown AIDS. It is consistent with Article 42 in the HIV/AIDS Law. However, Joint Circular No. 02/2006/TTLT-BCA-BQP-MOH-TANDTC-VKSNDTC should guide the execution of legal regulations that temporarily suspend prison sentences but it should also cover the suspension of investigations which would make it consistent with the HIV/AIDS Law.
- The difference between violating the regulation about “disclosure” and “making public” is not substantial. Lawmakers should combine them to avoid confusion and implementation difficulties.
- Penalties described in two Decrees: Decree No. 69/2011/ND-CP on the Handling of Administrative Violations pertaining to preventive medicine, medical environment and HIV/AIDS was issued some time ago and some unreasonable provisions of this Decree became effective before Decree No. 91/2011/ND-CP was promulgated on handling administrative violations pertaining to child protection, care and education. Decree No. 91/2011/ND-CP should be retained.
- Add PLHIV laborers and list all marginalized laborers in the Labor Code to ensure the legal rights of all of these groups.

- Promulgate documents that amend the allowance as stated in Table 1, Decree No. 67/2007/ND-CP so that monthly allowance for PLHIV will increase to keep up with the cost of living.
- The Government should issue a more feasible mechanism and policies to provide incentives to encourage enterprises to employ recovering drug users in cooperation with the detoxification centers. If these people are employed and have a stable income, they will be more likely to successfully reintegrate into the community. Specifically, it is recommended that local authorities encourage enterprises to build workshops by providing land, with the enterprises covering the cost of physical infrastructure and equipment. The human resource would be the recovering people from the centers. In production, the enterprises will provide the people with the technical and professional skills to enable them to satisfy the requirements of the jobs. At the same time, IEC activities to fight against stigma imposed upon recovering drug users and PLHIV should be strengthened via the enterprise owners. Vulnerable people should also be educated to have a positive attitude toward vocational training and work, and promote self-reliance and proactiveness to help them overcome difficult circumstance of reintegration back into the community. In addition, monitoring and supervision should be more intensive to ensure that the functional agencies adhere to the policies. Evaluations should be conducted to assess the relevance and feasibility of the new regulations.
- Decree 122/2011/ND-CP should be revised to include specific categories of employees, namely people with disabilities, recovering drug users, and PLHIV. Alternatively, the Decree could calculate the proportion of tax exemption using progressive taxation. E.g. corporations employing >10 percent 'special' laborers are entitled to have a 10 percent tax exemption, employers with > 20 percent special employees would be entitled to a 20 percent tax exemption, and those employing > 30% could operate tax free.
- Revise Article 21 in Governmental Decree No. 73/2010/ND-CP, dated July 12, 2010, on handling administrative violations of social security, order and safety for such acts as *“Providing a location or facility for other people to smoke, inject or use drugs”* and *“To broker, support, facilitate or any way help other people inject, smoke or use drugs.”* Add an exclusive regulation that will allow syringe distribution and exchange in programs and projects in harm reduction interventions in HIV prevention for PWIDs. These behaviors should not be considered violations of the law and fines should not be imposed.

5) Recommendation for the development of new legal documents addressing HIV/AIDS

- Develop new legal documents about the socialization of HIV/AIDS with specific regulation on funding sources, revenue and expenditures, plus guidance on how to use the revolving fund to serve HIV/AIDS activities, how to diversify services and service providers, and how to form public-private partnerships and network to have maximum cost effectiveness.
- Develop legal documents with specific regulation about the participation of CSOs, CBOs in HIV/AIDS programs with a sustainable development orientation.
- Formulate legal documents on the integration of HIV/AIDS programs into socioeconomic development programs of localities, ministries and sectors. Targeted integration would be into infrastructure development projects, business and producers, domestic and international agencies, RH, FP/STIs/STD programs, hunger eradication and poverty elimination programs, and vocational training and social security programs.

XIII. Recommendations regarding the implementation of the HIV/AIDS Law

1) RECOMMENDATIONS ON MANAGEMENT

- The local Committee for HIV/AIDS, Drug and Sex Work Prevention and Control should strengthen monitoring and provide consistent guidelines to the relevant local sectors, including a mobilization and participation of social organizations/self-help groups in HIV/AIDS activities for sustainable development.
- The Health and Labor-Invalids-Social Affairs sectors should develop action plans that combine harm reduction interventions with the other health and social services.
- Establish a coordinating framework and make a stronger connection with HIV, RH, and FP in the healthcare system to make use of available resources in the localities.
- Organize the networking of HIV/AIDS systems in provinces/cities with the networks of NGOs, CBOs, and self-help groups to unify and strengthen the power of the system as a whole.

2) Recommendations for professional services

- Strengthen IEC, advocacy, and the dissemination of information and communication about the legal framework/policy system relating to HIV/AIDS.
- Reestablish and replicate the network of legal clinics for PLHIV and other MARPs or integrate HIV/AIDS legal services into MOJ's nationwide network of legal aid centers.
- Organize communication about the HIV/AIDS Law in VCT and OPC for PLHIV to help them have a better understanding about their rights and obligations as provided by HIV/AIDS Law. IEC materials written in local languages (Hmong, E de, etc.) should be developed for people in the mountainous areas to enable communicators to guide their clients in a correct way.

- The existence of PWIDs should be accepted to have more relevant policies and interventions. Strengthen PWIDs' access to MMT. Review and revise the eligibilities for selection so that the beneficiaries have access to interventions in a more open way. Strengthen the institutions providing MMT in the districts (infrastructure, management).
- Provide technical support for MSM's, CBOs and self-help groups (especially MSWs) to facilitate their access to information and harm reduction services.
- Deploy condom programs in all entertainment establishments to limit HIV transmission. Expand social marketing for condoms and the total market approach, gradually reducing free condom distribution.
- A commitment to carry out onsite condom promotion and distribution should be required when issuing business registrations for entertainment establishments, hotels, and guesthouses. In multi-sectoral cooperation with annual monitoring there must be forms that remind such businesses that they must sign the commitment to 100% condom use program every year. Develop M&E indicators and a rating system when monitoring the establishments involved in HIV/AIDS activities. Organize a means to commend and reward those establishments that have been active participants and punish those establishments that do not participate.
- There should be a regulation to manage SWs who are exposed to HIV and use drugs after they leave compulsory drug detoxification centers. Arrange work for these people because most of them return to their old path (relapse) after they leave these centers. Include MOLISA's responsibilities in management and providing education for SWs in Article 32 of the Sex Work Ordinance.

3) Recommendations for resource availability

The rapid expansion of HIV/AIDS treatment, MMT, and syringe and condom distribution programs require significant resources that may be available for only a certain period of time. Donors are reducing funding for direct services and switching more to technical support. This leads to a big gap between need and supply of ARV drugs, methadone, commodities, materials and equipment for HIV/AIDS programs. The current legal framework does not allow HIV/AIDS program managers to mobilize all potential resources that are available in order to fully implement much needed HIV/AIDS programs. Below are some recommendations made by the research team:

- In the new legal documents to be developed, there should be provisions about “financial resources” for HIV/AIDS activities, and guidelines should be more specific and detailed.
- Implementation of harm reduction interventions is done not only through programs and projects (Article 21-HIV/AIDS Law, Decree No. 108/2007/ND-CP) and therefore the State should allocate resources for harm reduction interventions. Resources for HIV/AIDS activities (Article 43-HIV/AIDS Law) should be allocated based on the number of PLHIV in a locality rather than evenly distributing funds to every district and commune.
- The Government/MOH should have regulations specifying resources for harm reduction programs.
- MOH should cooperate with MOF to issue a joint circular guiding the management and use of funds for the National Target Program on HIV/AIDS suitable for inclusion in the National Target Program on HIV/AIDS in the 2012-2015 time period.
- Increase financial resources for HIV/AIDS activities, especially IEC, and gradually move from free distribution to a partial or full fee-based program for HIV/AIDS related services depending on the ability to pay among different groups of subjects.
- Provide specific regulations specifying resources to support HIV/AIDS activities, such as resources from the State, from enterprises and from individuals/organizations. There should be regulations governing how to mobilize local resources (organizations/individuals/enterprises).
- Capacity building for NGOs and CBOs (management and technical capacity) should be increased to enable them to participate and ensure the majority of services such as approach, care, referral, psychological support and reintegration into the community for PLHIV, SWs, PWIDs and MSM.

XIV. Annexes

Annex A: Summary of Recommendations to Revise, Update, and Develop New Legal Documents related to HIV/AIDS, Drug Treatment, Sex Work, and the Role of Civil Society Organizations

Document	Analysis	Suggested Modification / Change
DOCUMENTS RELATED TO HIV/AIDS IN GENERAL		
Article 23, HIV/AIDS Law Socioeconomic development programs	<p>Article 23 of the HIV/AIDS Law referring to the integration of HIV/AIDS prevention and control activities into the socioeconomic development program states:</p> <p><i>“1. HIV/AIDS prevention and control is one of the prioritized targets of the socioeconomic development programs.</i></p> <p><i>2. The Government directs ministries, sectors and local administrations to integrate HIV/AIDS prevention and control activities into hunger eradication and poverty alleviation programs, vocational training and employment generation programs, along with tuberculosis prevention and control, reproductive health, sexually transmitted infection (STI) prevention and control, and other socioeconomic development programs.”</i></p>	<p>Programs should be added which have integrated FP services into HIV/AIDS prevention and control efforts.</p>

Document	Analysis	Suggested Modification / Change
	<p>The HIV/AIDS Law lists several important socioeconomic development programs which should be integrated into HIV prevention efforts. However, the HIV/AIDS Law does not include family planning (FP) services. There is almost no integration of family planning services into HIV prevention in practice while the integration of family planning services into HIV prevention programs has been shown to be very effective when there's an integration of FP services into HIV voluntary counseling and testing (VCT). FP leads to an increase in the number of HIV VCT cases <i>when there's an integration of HIV VCT into FP services, a referral to HIV VCT at FP facilities, an integration of FP services into services for HIV prevention of mother-to-child transmission (PMTCT), and when there's intensive post-partum care for those newborns born to HIV positive mothers, improving FP related knowledge.</i></p>	
<p>Decision 1202/QĐ-TTg on the approval of a national target program for HIV/AIDS prevention and control from 2012 to 2015</p>	<p>Regarding the subjects: Article 1, Item 4, defines the subjects of a program using the enumerative style - a style commonly used in Vietnam. However, a limitation of this method is that information is often missing.</p> <p>Regarding the subject "men who have sex with men" (MSM), homosexual women are virtually neglected.</p>	<p>MSM should be revised to become "people who have a homosexual tendency."</p> <p>Other categories of subjects that should be added such are:</p> <p>Adolescents: These subjects are not fully developed physically or mentally. Therefore, there should be an integration of HIV/AIDS IEC programs and programs such as tuberculosis (TB), STIs, gender, and reproductive health.</p> <p>People with physical disabilities: Proper attention is not given to these people's sexual life and they are not provided with information related</p>

Document	Analysis	Suggested Modification / Change
		<p>to safe/healthy sex. Because it is assumed that they do not have any sexual desire, they are not provided with information about safe and healthy sex. Some people who are mentally retarded are at high risk of sexual abuse, STIs or pregnancy, and their children could be born with the same mental problem. These people really need to be offered protection by society.</p>
<p>National strategy on HIV/AIDS prevention and control in Vietnam until 2010 with a vision to 2020.</p> <p>Programs and policies about gender.</p>	<p>The national strategy on HIV/AIDS prevention and control in Vietnam until 2010 with a vision to 2020 is: “Raise gender awareness and improve gender-related analytic skills among policy makers and program managers and implementers, and motivate gender equality in HIV/AIDS care and prevention programs.”</p> <p>IEC programs on safe sex do not distinguish between male condom users, including those who are sexual clients. Male condoms are the most common method of HIV prevention in Vietnam for those who engage in sexual intercourse. While female condoms are now also available and protect users against STIs including HIV, they are hardly mentioned. STD prevention measures designed for women have not been prioritized in the prevailing policies, programs on HIV/AIDS or in the integration of sex education programs with HIV prevention and control.</p>	<p>A gender-based approach that should be used would emphasize the role that women and their organizations play in the development, planning and implementation of HIV/AIDS related policies at all levels, especially at the commune level.</p> <p>The targeted audiences of IEC programs on gender and HIV prevention should be diversified.</p> <p>Update preventive methods against STDs for women such as female condoms so that women will be able to protect themselves without being dependent on their sexual partners.</p>
<p>Article 4, Decree No. 108/2007/NĐ-CP, detailing the implementation</p>	<p>While the HIV/AIDS Law (Glossary, Article 2, Item 15) states that “<i>Harm reduction interventions in HIV prevention include propaganda, mobilization and encouragement of condom use, clean syringes and treatment of addiction to opiate substances with substitute substances, along with other harm</i></p>	<p>The HIV/AIDS Law should provide a clearer description of the harm reduction interventions. In addition, regulations on harm reduction presented in the HIV/AIDS Law and Decree 108 on HIV should be consistent.</p>

Document	Analysis	Suggested Modification / Change
<p data-bbox="275 266 485 358">of a number of articles of the HIV/AIDS Law</p> <p data-bbox="275 451 470 544">Article 2, Item 15, HIV/AIDS Law</p>	<p data-bbox="527 266 1188 326"><i>reduction interventions in order to facilitate safe behaviors to prevent HIV transmission.”</i></p> <p data-bbox="527 331 1188 391">Decree No. 108 CP mentions three harm reduction interventions:</p> <ol data-bbox="625 412 1163 630" style="list-style-type: none"> <li data-bbox="625 412 1163 472">1. <i>Condom distribution and instruction for use.</i> <li data-bbox="625 493 1094 553">2. <i>Distribution of clean syringes and instruction for use.</i> <li data-bbox="625 574 1129 630">3. <i>Treatment for addiction to opiate substances with substitute substances.</i> <p data-bbox="527 651 1188 776">An unclear presentation of terms in the HIV/AIDS Law makes it confusing and leads to an understanding that Decree 108 does not identify all measures available for harm reduction.</p>	
<p data-bbox="275 883 470 943">Article 21, HIV/AIDS Law</p> <p data-bbox="275 987 491 1317">Articles 7 and 8 of Decree 108/2007/NĐ-CP, detailing the implementation of a number of articles of the HIV/AIDS Law</p>	<p data-bbox="527 802 1188 1062">One harm reduction intervention in HIV prevention is the distribution of condoms with instructions for use, and clean syringes. Subjects eligible for these interventions include sex workers (SWs) and their clients, injecting drug users (PWIDs), PLHIV and homosexual people. However, in practice, regulations that were thought simple have been hindered by many ‘barriers’.</p> <p data-bbox="527 1101 1188 1300">For instance, regarding condom distribution, it is stated in the Law that outreach workers are not to be considered as “law-breakers” when they distribute condoms, and the owners of guest houses and restaurants are to cooperate and provide condoms free of charge.</p> <p data-bbox="527 1339 1188 1398">However, it has many times happened that when outreach workers went to a guest house or hotel</p>	<p data-bbox="1226 987 1839 1284">In order to facilitate IEC activities and the dissemination of the HIV/AIDS Law in general, particularly regarding outreach workers, regulations on the scope of the work done by outreach workers should be included in the guidance for administrative check. This would provide those working in this field with a proper understanding of outreach workers’ and help avoid “she says yes but he says no” conflicts.</p>

Document	Analysis	Suggested Modification / Change
	<p>to carry out the program and do project related work, they are charged with abetting prostitution. Guest houses and hotels placing condoms in bedside cabinets was viewed as “evidence” of the buying and selling of sex and sheltering commercial sex activities. Consequently, those guest houses and hotels were placed in administrative check.</p>	
<p>Article 4, Item 1 (d); Article 4, Item 2 (c), HIV/AIDS Law</p>	<p>Article 4, HIV/AIDS Law: “Rights and obligations of HIV-infected people”</p> <p>HIV-infected people have the following rights:</p> <ul style="list-style-type: none"> a) To live integrated with the community and society; b) To enjoy medical treatment and healthcare; c) To have a general education, learn jobs skills and work; d) To have information related to their HIV/AIDS condition kept confidential; e) To refuse medical examination and treatment when getting treated for full-blown AIDS; f) Other rights as provided for by this Law and other related laws. g) Those infected with HIV have the following obligations: h) To apply measures to prevent HIV transmission to other people; i) To inform their spouse or fiancé of their HIV positive status; j) To observe instructions on treatment with ARVs; k) Other obligations as provided by this 	<p>Revise Clause c, Item 2, Article 4 in the HIV/AIDS Law to: <i>“Adhere to the regulations on ART except for the regulation set forth in Clause d, Item 1 of Article 4.”</i></p>

Document	Analysis	Suggested Modification / Change
	<p>Law and other related laws.</p> <p>Article 4, Item 1 (b) conflicts with Article 4, Item 2 (c) of HIV/AIDS Law because all HIV-infected people have the obligation to adhere to ART regulations. However, those who are at the final stage of their illness do have the right to refuse medical examination and treatment.</p>	
<p>Article 7, Item 1 (b), HIV/AIDS Law Decree No. 108/2007/NĐ-CP</p>	<p>Article 7, Item 1 (b) of the HIV/AIDS Law: <i>“Legal protection is given to those providing condoms, clean needles and syringes or treatment of addiction to opiate substances with substitute substances to those covered in Article 5 of this Decree.”</i> The question is whether people other than the outreach workers who provide condoms, clean syringes and treatment of addiction to opiate substances with substitute substances are breaking the law. Normally this practice is not thought to violate the law and therefore this statement is not necessary and should be modified to serve as an encouraging measure.</p>	<p>Revise the statement in Article 7, Item 1 (b) of HIV/AIDS Law to: <i>“Encourage the distribution/provision of condoms, clean needles and syringes, and the treatment of opiate addiction with substitute substances for those stated in Article 5 of this Decree.”</i></p>
<p>Article 4, Item 1; Article 18, Item 1, Item 3 (b), Decree 69/2011/NĐ-CP, Handling administrative violations in preventive medicine, the medical environment</p>	<p><i>Article 4, Item 1: “In-cash fine for not disseminating, biennially, a communication about infectious disease prevention and control to employees of the institution as stipulated by law.”</i></p> <p><i>Article 18, Item 1: “1. In-cash fine for not disseminating, biennially, information about HIV/AIDS prevention and control, anti-stigma and discrimination related to PLHIV according to HIV/AIDS Law, with the following fine schemes (to be levied on offending institutions):</i></p> <p><i>a) A fine of VND 500,000 to VND 1,000,000 for</i></p>	<p>With each punishment there should be a mechanism to ensure enforcement. Without a precise mechanism of enforcement, the regulation regarding punishment is not feasible in practice and therefore the regulation does not exist for all practical purposes. To ensure the feasibility of Article 4 in Decree No. 69/2011/NĐ-CP on Handling administrative violations in preventive medicine, health environment and HIV/AIDS prevention and control, law makers should present clear and specific enforcement mechanisms and avoid general and impractical regulations which are ‘paper-only laws’.</p>

Document	Analysis	Suggested Modification / Change
<p>and HIV/AIDS prevention and control</p>	<p><i>those firms with < 50 employees;</i> <i>b) A fine of VND 1,000,000 to VND 3,000,000 for firms with 50 to 200 employees;</i> <i>c) A fine of VND 3,000,000 to VND 5,000,000 for firms with 200 to 500 employees;</i> <i>d) A fine of VND 5,000,000 to VND 10,000,000 for firms with 500 to 1,000 employees;</i> <i>đ) A fine of VND 10,000,000 to VND 15,000,000 for firms with 1,000 to 1,500 employees;</i> <i>e) A fine of VND 15,000,000 to VND 20,000,000 for firms with 1,500 to 2,500 employees;</i> <i>g) A fine of VND 20,000,000 to VND 25,000,000 for firms <u>with more than</u> 2,500 employees”</i></p> <p>This regulation is not feasible unless there is a specific management mechanism. E.g., most firms in Vietnam employ fewer than 50 people. The question is who is going to do an inspection to see whether IEC activities about the prevention and control of infectious disease are carried out as regulated. . In addition, it would be difficult to detect a violation because of the various methods that small businesses use to deceive law enforcement bodies. What needs to be discussed is the mechanism used to make sure that offending firms actually pay the fine.</p>	
<p>Article 11 and 12, Decree No. 96/2012/NĐ-CP</p> <p>Article 2, Item 2, Medical Examination and Treatment</p>	<p>The definition of a medical examination and treatment establishment has been established in the Medical Examination and Treatment Law: “<i>A medical examination and treatment establishment means a fixed or mobile establishment that is licensed and provides medical examination and treatment services.</i>” If based on the definition of the Medical Examination and Treatment Law,</p>	<p>Issue guidelines for the establishments that provide treatment for addiction to opiate substances with special attention given to organizational structure so they can operate in accordance to HIV/AIDS Law.</p>

Document	Analysis	Suggested Modification / Change
Law	<p>establishments that treat addiction to opiate substances with substitute substances are medical examination and treatment establishments.</p> <p>These establishments have to comply with the Medical Examination and Treatment Law. However, if the regulations of the Medical Examination and Treatment Law are applied, it would be difficult for these establishments to function for the following reasons:</p> <p>1) It's impossible to define whether these establishments are hospitals, general policlinics or a specialized policlinic;</p> <p>2) It's impossible to dispense medicines onsite if they are not hospitals; but if these establishments are hospitals, they can't function as hospitals due to inadequate conditions of the facilities and they would not be allowed to practice substitute therapy.</p>	
<p>Article 4.2, Revised Law on Drug Prevention and Control (2008)</p> <p>Article 2.15, HIV/AIDS Law</p> <p>Article 4.1, Decree No. 108/2007/NĐ-CP</p>	<p>Although articles in the HIV/AIDS Law allow MARPs to have better access to prevention services, there are still policy-related barriers to setting up and replicating effective interventions such as the clean syringe program at the local level. Despite the fact that carrying a syringe is not illegal, local authorities in many provinces consider it to be evidence of illegal drug activity. It's also the case that in many localities, clean syringe exchange projects focus only on the distribution of clean syringes neglecting the collection of used syringes.</p>	<p>Preventing the transmission of HIV/AIDS through drug injection should be considered and examined more thoroughly. First, state agencies should design comprehensive programs that consider syringe distribution and collection to be of equal importance. Second, strengthen IEC legal activities to involve local people and the local authorities in order to minimize the stigma and reduce discrimination toward PWIDs, and involve PWIDs in HIV/AIDS prevention and control activities.</p>
Article 8, Item 5; Article 39, HIV/AIDS Law	<p>Stipulate that notification must be made when the HIV test result is positive, a list of people that have access to HIV test results be drawn up, and</p>	<p>The HIV/AIDS Law presents regulations regarding prohibited behaviors and it should also present or refer to regulations how to administer</p>

Document	Analysis	Suggested Modification / Change
	<p>that it is the responsibility of those who have access to that information insure confidentiality. At this time, a mechanism to bring this about is not feasible.</p> <p>For example, a fine of VND 2,000,000 to VND 5,000,000 could be levied on those who disclosed information about HIV test results without permission or those who disclosed the name, age, image and address of a PLHIV. However, it is very difficult to actually fine a violator because there is no mechanism to determine wrongdoing or levy the fine. In the situation where a HIV-infected person threatens to infect others, there is no proscribed penalty.</p>	<p>punishments for violations, and also specify clearly those agencies that will be responsible for detecting and applying punishment for violations.</p>
<p>Article 5, Item 1, clause b, Circular No. 09/2012/TT-BYT, presenting Guidelines on the epidemiological surveillance of HIV/AIDS and other sexually transmitted infections.</p>	<p>Compulsory HIV testing in the health check-up for military recruits conflicts with the regulation that prohibit the causing stigma, discrimination or behaviors that cause HIV-infected people to be fired from their job. .</p> <p>Article 20, Decree No. 108/2007/NĐ-CP, detailing the implementation of some articles in the HIV/AIDS Law and a list of occupations for which an HIV test must be done before recruitment. It is stated: “Crew members as stipulated in Article 72 of the Vietnam Civil Aviation Law and new hires for special occupations involved in national security and defense” cannot be compelled to do an HIV test and, more importantly, to be tested would violate regulations that prohibit stigma, discrimination, and compulsory HIV testing.</p> <p>However, the “Action Plan on HIV/AIDS prevention and control in the army by 2020 with a vision to</p>	<p>For there to be consistency, documents issued by the Ministry of National Defense and Decree No. 108/2007/NĐ-CP must be clear. All work/occupations under national security and defense require good health and all recruits must undergo strict trainings. Decree No. 108/2007/NĐ-CP should clarify which occupations/professions are considered most important to national security and defense that require compulsory HIV testing.</p>

Document	Analysis	Suggested Modification / Change
	<p>2030” goes beyond the scope of regulations in the Law and the Decree. In the section “A group of solutions for HIV prevention, detection and the handling of HIV positive soldiers, epidemiological surveillance, monitoring and evaluation” it is stated: “...continue to thoroughly and synchronously exclude HIV-infected people from the army”. In the spirit of this Action Plan, every civilian has to undergo HIV screening prior to recruitment and only non-infected people will be accepted.</p>	
<p>Article 15, HIV/AIDS Law</p> <p>Article 20, Decree No. 108/2007/NĐ-CP, detailing the implementation of some articles of HIV/AIDS Law</p>	<p>Regarding regulations that apply to those occupations that require compulsory HIV testing prior to recruitment, a difficulty arises due to the conflict between ensuring that effective measures for HIV prevention and harm reduction are carried out and limiting public exposure causing stigma and discrimination. E.g.: occupations that are at high risk of HIV infection are hairdressing and dentistry, both of which make use of sharp instruments which can cause bleeding, exposing both the client and service provider to risk..</p> <p>HIV-infected children in the same school with non-infected children are also an issue. Children are not sufficiently aware of preventive measures for themselves and others and the risk of infection/transmission is high if they are scratched and bleeding while playing with each other. Schools that accept HIV-infected children to learn along with the others receive a lot of pressure from the parents of non-infected children.</p>	<p>Interventions for harm reduction always present the possibility for stigmatization and discrimination. Harmonizing legal regulations in order to strengthen interventions is difficult because of the potential for conflict with confidentiality. However, strengthening IEC activities on HIV/AIDS remains the most effective measure to achieve the common goal. Therefore, it is necessary to broaden the regulations on HIV/AIDS prevention and control counseling.</p>
<p>Article 21, HIV/AIDS Law</p>	<p>Homosexual people are legally bound to apply harm reduction interventions in HIV/AIDS prevention in</p>	<p>Currently, Vietnamese Law neither recognizes nor opposes homosexual intercourse. Clear</p>

Document	Analysis	Suggested Modification / Change
<p>Article 5, Decree No. 108/2007/NĐ-CP, regulating in detail the execution of some articles of the HIV/AIDS Law</p>	<p>accordance with Article 5, Decree No. 108/2007/NĐ-CP. However, this group experiences serious social stigmatization. As a result, it's more difficult to reach homosexual people and encourage them to apply harm reduction interventions.</p>	<p>provisions regarding homosexual people and intercourse should be set forth as soon as possible. The implementation of activities to prevent and control epidemic diseases in groups B and C, which includes HIV/AIDS, is linked to homosexual people and therefore clear legal terms on this issue is sorely needed.</p>
<p>Article 42, Item 1, HIV/AIDS Law Joint Circular No. 02/2006/TTLT-BCA-BQP-BYT-TANDTC-VKSNDTC, Guidance on the execution of regulations regarding the temporary suspension of imprisonment of those who have a life threatening disease</p> <p>Article 4, Decision No. 96/2007/QĐ-CP on the</p>	<p>HIV/AIDS Law allows that investigations and criminal cases that involved a person with full blown AIDS be suspended. This is in accordance with the Criminal Procedure Code (Item 1 Article 42). However, there is also Joint Circular No. 02/2006/TTLT-BCA-BQP-BYT-TANDTC-VKSNDTC which provides guidance on the execution of some regulations on the temporary postponement of imprisonment of people who have a life threatening disease. This Joint Circular includes provisions on temporary suspension of imprisonment while the HIV/AIDS Law allows a temporary suspension of an investigation that involved a person with AIDS.</p> <p>Then there is Article 4, Decision No. 96/2007/QĐ-CP, on the management, care, counseling and treatment for PLHIV which states that PLHIV are to have access to doctor prescribed ARV therapy that is provided by their family or an organization, individual, program or project that has been approved by a state agency. For PLHIV in prisons, the difficulty to access ART results in interrupted treatment and increased drug resistance.</p>	<p>Joint Circular No. 02/2006/TTLT-BCA-BQP-BYT-TANDTC-VKSNDTC, which provides guidance on the execution of some regulations on the temporary suspension of imprisonment of people who have a life threatening disease, should be revised to include terminology used in the Penal Law and Criminal Procedure Code and the Law on Handling Administrative Violation for AIDS people who are subject to criminal/administrative sanctions so that it will comply with Article 42 of the HIV/AIDS Law. Specifically, the scope of Joint Circular No. 02/2006/TTLT-BCA-BQP-BYT-TANDTC-VKSNDTC needs to be expanded so that it also provides guidance on granting a temporary suspension of an investigation or criminal case, harmonizing the Joint Circular with the HIV/AIDS Law.</p>

Document	Analysis	Suggested Modification / Change
management, care, counseling and treatment for PLHIV		
Article 18, Item 4, Clause c, and Item 5 Clause b, Decree No. 69/2011/NĐ-CP, regulating administrative sanctions in the area of preventive medicine, the healthcare environment and HIV/AIDS prevention	<p>Item 4, Clause c: <i>Anyone who discloses the HIV status of an infected person to anyone without the PLHIV's agreement, except in the case of notification of test results as regulated in Article 30 of the HIV/AIDS Law, can be fined VND 10,000,000 to 15,000,000.</i></p> <p>Item 5, Clause b): <i>Anyone who makes public the name, address or image of a PLHIV without their agreement, except in cases as stated in Article 30, Notification of HIV positive testing results, HIV/AIDS Law, can be fined VND 15,000,000 to 20,000,000.</i></p> <p>Because 'disclosure' is addressed separately from 'making public', policy makers should make clear exactly what is 'disclosure' and what is 'making public'.</p>	<p>There is not a big difference in the penalty for violating regulations forbidding inappropriate 'disclosure' and 'making public'. Therefore, policy makers should incorporate both terms into one regulation to simplify enforcement.</p>
Article 16, Item 1, Decree No. 91/2011/NĐ-CP, regulating sanctions of administrative violations regarding the protection, care and education of children	<p>Governmental Decree No. 91/2011/NĐ-CP, dated October 17, 2011, regulates sanctions of administrative violations regarding the protection, care and education of children. In the decree it states: all acts that force or threaten to force children to leave school, or be absent from school, or that seduce or involve children, obstruct their studies, or refuse to allow children who are HIV infected, suspected of being HIV infected, have a parent who is HIV infected or are at risk of HIV infection to study in a lawful educational setting will be fined 1-5 million dong.</p>	<p>The fine should be consistent and identical in the two Decrees. Decree No. 69/2011/NĐ-CP regulating sanctions of administrative violation regarding preventive medicine, health environment and HIV/AIDS went into effect before Decree No. 91 but it contained some unreasonable articles. Thus, Decree No. 91/2011/NĐ-CP should be amended accordingly</p>

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<p>Article 22, Item 1, Decree No. 69/2011/NĐ-CP, regulating sanctions of administrative violations regarding preventive medicine, health environment and HIV/AIDS activities</p>	<p>I It is stated in Governmental Decree No. 69/2011/NĐ-CP, dated 8/8/2011 and regulating sanctions of administrative violations regarding preventive medicine, health environment and HIV/AIDS, that anyone who carries out obstructive behavior or refuse to allow a child to study in an educational setting of the national educational system because of the child's HIV positive status will be fined 5-10 million dong.</p> <p>Because the penalty amounts are different this law is difficult to to enforce. When violation occurs, it is impossible to know which of these laws should be applied.</p>	
<p>Table 1, Decree No. 67/2007/NĐ-CP</p> <p>Article 2, Decision No. 313/2005/QĐ-TTG</p>	<p>Table 1, Decree No. 67/2007/NĐ-CP, stipulates an allowance of VND 180,000/month for each PLHIV. This amount is low, it's the same for everyone and adjustments to it have not kept up with inflation.</p> <p>Article 2, Decision No. 313/2005/QĐ-TTG, which provides data on allowances, should be changed and adjusted to match the current economic situation considering minimum wage, living standards, price index, etc.</p>	<p>Promulgate documents to amend the allowance as stated in Table 1, Decree No. 67/2007/NĐ-CP so that the monthly allowance for PLHAs will increase to keep up with inflation.</p>
DOCUMENTS RELATED TO DRUG CONTROL and DRUG TREATMENT		
<p>Article 10, Item 1, Decree No. 108/2007/NĐ-CP</p> <p>Decision No.</p>	<p>Article 10, Item 1, Decree No. 108/2007/NĐ-CP: <i>Alternative addiction treatment is not applied in prisons and detention centers managed by Public Security and National Defense ministries or in medical treatment establishments managed by MOLISA.</i> Meanwhile, based on the actual need to</p>	<p>Remove Article 10, Decree No. 108/2007/NĐ-CP to ensure the participation of sectors such as MOLISA, public security and defense in providing substitute treatment services for needy people.</p>

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5146/QĐ-BYT	implement alternative addiction treatment in target provinces/cities for those using drugs and with HIV/AIDS, the need to treat drug addicts with the target to treat 80,000 drug addicts by 2015 stated in Decision No. 5146/QĐ-BYT of 27/12/ 2010, which the limits alternative addiction treatment as regulated in Decree 108, is not only irrelevant regarding the practice of substitute addition treatment, it also limits the involvement of sectors such as MOLISA, public security and national defense in providing substitute treatment for subjects in need.	
Law on Drug Prevention and Control (Drug Control Law)	To be considered detoxified, an addict must stay in a 06 center until they have successfully given up drugs. However, it is in fact very difficult for addicts to give up addictive substances such as methamphetamine. This means the addicts who undergo detoxification might be 'detained' for a long period of time because of the difficulty they have in giving up this addictive substance. With respects to human rights, this method restricts the freedom of these subjects. In addition, methamphetamine users often suffer from delusions and therefore, therapy for nervous disorder is more appropriate than regular dugs detoxification	Addictive substance and their harmful effects should be differentiated. Using this as a base, competent authorities must figure out an appropriate treatment for each subject. An identical detoxification procedure for all drugs addicts should be avoided because it's not only ineffective but also restricts the freedom of those in this subject group.
Articles 95 & 96.1, LXLVPHC 2012 Drug Control Law, Amendments and Supplements of	According to the health sector, the Drug Control Law has been revised and it now does not discriminate against drug users and its more consistent with the HIV/AIDS Law. However, under the Law on Handling Administrative Violations, drug use is still an administrative violation and drug users are to be put under administrative surveillance for two years. Since drug users are considered to be people with an illness, their	In principle, illicit drug use should still be considered an administrative violation because this behavior is disruptive to the community. However, considerations regarding subjects, methods and sanctions should be made to avoid increasing the stigma felt towards this subject group by the community. It is better to encourage PWIDs to get voluntary community based treatment rather than detain them and limiting

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<p>2008</p> <p>Article 3.1, Decree 94/2009/NĐ-CP</p> <p>Article 1.2, Decree 61/2011/NĐ-CP</p>	<p>human and civil rights, especially their freedom and right to have access to medical services, must be ensured.</p> <p>The above administrative surveillance might be an obstacle in the effort to prevent and control HIV/AIDS among PWIDs and provide HIV treatment and care for PLHIV in these facilities. This might affect the effectiveness of HIV programs reaching MARPs.</p> <p>A discrimination index survey shows an existing high level of stigma and discrimination while other studies show that due to fear of being arrested, MARPs's delay going to healthcare facilities until they are seriously ill.</p>	<p>their civil freedom.</p>
<p>Decree No. 96/2012/NĐ-CP</p> <p>Circular No. 12/2013/TT-BYT providing direction for Decree 96</p>	<p>Chapter V of Circular No. 12/2013 provides detailed instruction on registration for substitute addiction treatment and referral for substitute treatment. However, the regulations of this Circular are instructions for medical treatment establishments while no management mechanism for these facilities is preferred. Chapter VI of the Circular regulates the responsibilities of implementers but it doesn't mention the responsibilities of medical treatment establishments should they not provide instructions on how to register for substitute treatment and fail to give a referral for substitute treatment, e.g. when a medical treatment establishment does not do what its supposed to do making it difficult for a patient.</p>	<p>The circular (Chapter VI) should include provisions on accountability of medical treatment establishments when giving guidance for registration of treatment and referral to addiction treatment. They have a responsibility not only to their parent bodies but also to inform patients of the results of admission and treatment, ; to make a copy of the treatment record, the referral slip, the receiving records, that providing treatment for referred people and a record of any delay, in accordance with Article 19 of the Circular. This will ensure the rights of patients and protect them from being harassed when they follow procedures to change the addiction treatment or treatment facilities.</p>
<p>Annex 8 Circular No. 12/2013/TT-BYT</p>	<p>The application form for addiction treatment for opiate substance at Annex 8, Circular No. 12/2013/TT-BYT, requires certification by the commune people's committee (CPC) where the</p>	<p>To avoid confusion as to who needs to certify the patients' application form, the CPC or the Provincial Department of Justice, the requirement for a 2nd certification for those who "Do not belong</p>

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	<p>patient resides. Patients oftentimes do not want to get this CPC certification for the following reasons:</p> <p>First, patients oftentimes do not want to reveal that they are addicted. Secondly, many CPC recognize that such certification is for patients who are not subject to obligatory addiction treatment and they are not certifying a judicial CV for a patient who is under the management of the Provincial Department of Justice. However, given that the CPC are responsible for all residents living in the commune, it would be unreasonable for CPC to refuse to provide certification for a patient.</p>	<p>to the target groups that are subject to obligatory addiction treatment as stipulated by laws” in Annex 8 of the Circular No. 12/2013/TT-should be removed.</p> <p>This is a troublesome regulation pitting the authority of the CPC against that of the Provincial Department of Justice.</p> <p>This regulation unintentionally distinguishes between patients who desire voluntary addiction treatment and those who are receiving obligatory treatment. Such a distinction in rehabilitation is unnecessary.</p>
<p>K2-Đ2, Decree No. 96/2012/NĐ-CP</p> <p>K11-Đ2, Drug Control Law</p>	<p>K2-Đ2 Decree No. 96/2012/NĐ-CP: <i>“Opiate addicts are those who use and become dependent on opiate substance”</i></p> <p>K11-Đ2 Drug Control Law: <i>“Drug addicts are those who use and become dependent on a drug, addictive substance or narcotic substance.”</i></p> <p>The terms <i>“Opiate addicts”</i> and <i>“drug addicts”</i> are not consistent. This makes it difficult to enforce the law.</p>	<p>Be consistent when using technical terms such as <i>“Opiate addicts”</i> and <i>“Drug addicts”</i> to avoid applying two separate laws to the same subjects – the addicts</p>
<p>HIV/AIDS Law</p> <p>2008 revised Drug Control Law</p>	<p>Regulations that apply to drug addiction treatment in the Drug Control Law are not consistent with those in the HIV/AIDS Law. Even though drug addiction is considered to be a disease, the legal documents that apply to this topic provide only two options for opiate addicts: either home-based or community-based addiction treatment. There is no regulation that providing them with a path to join a treatment program with a</p>	<p>Revise the regulations regarding drug addiction treatment which separate subjects who join opiate addiction treatment offering a substitute substance from subjects receiving obligatory addiction treatment. An exception would be those who continue using the drug during therapy.</p>

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	<p>substitute substance. On the other hand, drug rehabilitation in an obligatory rehabilitation setting is natural detoxification (e.g. just manage your cravings) even though opiate addiction is a chronic disease that needs long-term treatment. Thus far, there is no legal framework for opiate addiction treatment with substitute substance in these settings.</p>	
<p>Article 4, Decree No. 108/2007/NĐ-CP</p> <p>Article 1.9, Revised Drug Control Law</p>	<p>Harm reduction measures for drug addicts are mentioned in the revised Drug Control Law. However, there are no specific guidelines regarding harm reduction or how to organize or carry out the measures. This measure is stipulated in the HIV/AIDS Law, with detailed guidelines in Decree No. 108/2007/NĐ-CP.</p>	<p>There should be specific guidelines on harm reduction measures of drug addiction that match those of the HIV/AIDS Law.</p>
<p>Article 10.1, Decree 108/2007/NĐ-CP Decision No. 5146/QĐ-BYT</p>	<p>Article 10.1, Decree No. 108/2007/NĐ-CP: <i>“Addiction treatment with a substitute substance is not to be applied in prisons or detention centers managed by Public Security and National Defense sectors, or in the health care centers managed by the Labor-War Invalids-Social Affairs sector.”</i></p> <p>Meanwhile, there is the need for addiction treatment with a substitute substance in targeted provinces. A target has been set to provide drug addiction treatment for 80,000 drug addicts by 2015, as stipulated in Decision No. 5146/QĐ-BYT of December 27, 2010. The limited expansion of drug addiction treatment with a substitute substance provided for in Decree No. 108 is not only inappropriate regarding the actual execution of drug addiction treatment with substitute substance but it also limits the participation of MOLISA, Public</p>	<p>Remove Article 10.1 from Decree No. 108/2007/NĐ-CP to ensure participation by relevant sectors, especially the Labor-War Invalids-Social Affairs, Public Security and National defense sectors, in providing additional treatment with substitute substances for the needy target groups. Competent agencies should consider giving permission to provide methadone Maintenance Treatment (MMT) in 06 Centers .</p>

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	Security and National defense sectors in providing additional treatment with substitute.	
<p>Article 33.6 in the 2008 revised Drug Control Law</p> <p>Article 12.3(b), Decree No. 94/2009/NĐ-CP</p> <p>Article 5, Joint Circular No. 121/2010/TTLT-BTC-BLĐTĐBXH</p>	<p>According to the law, agencies are to help detoxified people have access to vocational training, credit and entrance to social activities so they can reintegrate into the community. However, this has not been successful regarding vocational training and employment opportunities. One obvious difficulty is the refusal of businesses to hire detoxified people. Reasons include: i) the enterprises do not believe that these detoxified people have the required technical skills, ii) most detoxified people are in poor health, limited education and various psychological problems. For all of these reasons it has been difficult for them to find jobs.</p> <p>Additionally, few vocational training centers for detoxified people have adequate physical infrastructure. The centers commonly have a limited area for management, inadequate facilities for organization of business and a minimal area for health care services. Moreover, because the number of addicts who are entering detoxification centers is rising fast, those who do take vocational training courses have no chance to practice. Many trainees see it as futile and walk out.</p>	<p>The Government should devise a more feasible mechanism and policies to provide incentives to encourage enterprises to employ detoxified people coming out of the centers. If they had a stable income, these people would be more likely to reintegrate into the community. Specifically, the local authority encourages an enterprise to build a workshop by providing the land while the enterprises covers the cost of the physical infrastructure and equipment. The human resources are to be the detoxified people from the centers. At the facility, the employer is to teach the detoxified people to enable them to do the job.</p> <p>At the same time, IEC activities with the enterprise owners is to minimize the stigma faced by detoxified people and PLHIV. Those who have been detoxified should be encouraged to have a positive attitude toward vocational training and working, and build a sense of self-reliance and proactiveness to overcome the difficulty of reintegrating into society. In addition, monitoring and supervision should be more intensive to make sure that functional agencies adhere to the policies. Evaluations should be conducted to assess the relevance and feasibility of those regulations.</p>
DOCUMENTS RELATED TO SEX WORK		
K4- Đ17, HIV/AIDS Law	K4- Đ17, HIV/AIDS Law: <i>“The State encourages families, neighbors and friends of PLHIV to provide spiritual and psychological support, care and</i>	Legal documents should be issued that stipulate specific measures, policies and services that are specially designed for SWs, but for PLHIV as

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<p>K4- D14, Prostitution Ordinance</p>	<p><i>physical support, and provide them with enabling conditions to integrate into the community and society.”</i></p> <p>K4- D14, Prostitution Ordinance: <i>“The State has policies and measures to encourage and support organizations and individuals that provide healthcare services, education, vocational training, and employment opportunities to help sexual workers (SWs) integrate into the community.”</i></p> <p>The regulations mentioned above are purely principles. In fact, there are no policies and services that provide SWs with specific support for community integration.</p>	<p>well, to integrate into the community</p>
<p>- D3.K3, HIV/AIDS Law - D11; D14, Prostitution Ordinance</p>	<p>K3-D3, HIV/AIDS Law: <i>“Closely combine HIV/AIDS prevention and control with drug and prostitution control, focusing on harm reduction measures in HIV prevention.”</i></p> <p>The Prostitution Ordinance barely mentions harm reduction for SWs in the prevention of HIV infection. While this Ordinance points out various measures for prostitution prevention and control, these contents are insufficient, being purely principle without any mechanism for execution of the measures mentioned. . For example, regarding education and communication for prostitution prevention and control, (D11) <i>mentions communication, responsibilities of relevant organizations, and agencies in communication, rather than solid objectives, requirements, or even a target audience of the communication.</i> For socioeconomic measures, (D14) <i>mentions vocational training and health care services for SWs</i></p>	<p>Clearly stipulate harm reduction for SWs with regards to HIV/AIDS prevention.</p> <p>Clearly stipulate specific solutions for SWs including employment opportunity and avoidance of STDs including HIV/AIDS, when engaged in prostitution. At the same time, the responsibilities of CPC in providing support for SWs who complete their punitive sanction and seek to integrate into the community should be clarified.</p>

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	<p><i>but not measures such as counseling or social services.</i> The contents of the Ordinance do not point out specific solutions for SWs which might be employment, the prevention of social diseases, including HIV/AIDS, when engaged in prostitution or the responsibility of CPC in supporting SW as they attempt to integrate into the community after they complete their punitive sanctions.</p>	
<p>Đ3, HIV/AIDS Law</p> <p>Đ7, Prostitution Ordinance</p>	<p>Article 3 of the HIV/AIDS Law presents principles of HIV/AIDS prevention and control, including: <i>“Closely combine HIV prevention with prevention and control of drug and prostitution.”</i> However, the Prostitution Ordinance just states the principle: <i>“Combine the fight against prostitution with the prevention and control of drugs and HIV/AIDS”</i> for developing measures to prevent and control prostitution rather than present it as a separate article.</p>	<p>Add a separate article about the principle of combining prostitution control, and preventing drug abuse and HIV/AIDS in Prostitution Ordinance which corresponds to that in the HIV/AIDS Law.</p>
<p>K2-Đ16, HIV/AIDS Law</p> <p>K1-Đ15, Prostitution Ordinance</p> <p>Đ19, Prostitution Ordinance</p>	<p>K2- Đ16, HIV/AIDS Law: <i>“The owners and managers of enterprises that provide lodging services; parking for vehicles, ships or boats; tourism or other social or cultural services must cooperate with local agencies that are in charge of HIV/AIDS to conduct IEC activities regarding HIV/AIDS and provide suitable harm reduction services in HIV prevention for their customers.”</i> Meanwhile, K1-Đ15 in the Prostitution Ordinance states <i>“it is the responsibility of the entertainment establishments to sign labor contracts and register their employees, and provide regular health checkups for them,”</i> without mentioning the responsibilities of these owners to provide information regarding HIV/AIDS control or to</p>	<p>The Prostitution Ordinance should be revised in the spirit of the Law on Handling Administrative Violations and the HIV/AIDS Law such that the Prostitution Ordinance would have more specific regulation about the responsibilities of judicial subjects such as the owners of restaurants, hotels, entertainment establishments, etc. in providing harm reduction services, with condoms, to create consistence and synchrony with the</p>

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	<p>provide harm reduction services, or that they are to provide HIV/AIDS prevention for the service users in their establishments as stipulated in § 16 of the HIV/AIDS Law.</p> <p>§19, Prostitution Ordinance: <i>“CPC are responsible for management and the provision of information to SWs and those people taking part in the act of prostitution.”</i></p> <p>In fact, the regulation in §19 of the Prostitution Ordinance is not feasible. For the time being, the CPC does not interfere with SWs when they violate the law in some other location. At the same time, in the interest of good ethics and humanity, the violators’ prestige and family honor should be protected. For this reason, when a decision is executed, it is not advisable to widely publicize the fact that persons who violated the prostitution law will be reeducated in the commune.</p>	<p>judicial system in HIV/AIDS prevention and control as well as increase the efficiency of the interventions.</p> <p>The Prostitution Ordinance concentrates on SWs to the exclusion of their clients and the organizers of the prostitution. The Prostitution Ordinance should clarify punitive sanctions for the clients and the organizers of prostitution.</p>
<p>K5-§12, HIV/AIDS Law</p> <p>§10, Prostitution Ordinance</p>	<p>K5- Article 12, HIV/AIDS Law: <i>“MOLISA, the Ministry of Public Security (MOPS) and the Ministry of National Defense (MOD), within their responsibilities and authority, take the lead and cooperate with the relevant ministries and sectors to provide instruction on IEC activities for HIV/AIDS prevention and control in medical treatment establishments, educational settings, social centers, prisons and detention centers.”</i></p> <p>However, in the Prostitution Ordinance, IEC measures in HIV/AIDS prevention and control do not specify a target audience to be approached and informed about HIV. It does not identify the responsibilities of agencies that are in charge of providing communication and information to the</p>	<p>The Prostitution Ordinance should clarify the regulation regarding the integration of IEC communication on HIV with specified target groups, identifying those to be prioritized. It should be the responsibility of the IEC agencies to give instructions to the media, to regularly conduct IEC sessions on HIV, and to integrate the prostitution program with the AIDS program and other information and communication programs</p>

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	media and have regular IEC activities about HIV, and integrate prostitution prevention and control with HIV prevention and other IEC programs.	
Government Resolution No. 5, dated January 29, 1993, about prostitution hindrance and control	<p>Many concepts in this resolution are out of date (e.g., SIDA catastrophe, state-run enterprises) and not suitable for current judicial language. Language used in the resolution and the writing style is like the spoken language.</p> <p>This document is incompatible with the current political, socioeconomic and cultural reality that now exists in Vietnam. Currently, State agencies have many ministries, sectors and functional agencies and so the responsibilities defined for some agencies in the resolution are inadequate. The content, including suggested measures, are inappropriate in the current context.</p>	<p>Abort this document because there is no longer a context for its contents.</p>
Article 3; Article 35, Ordinance of the National Assembly Standing Committee No. 10/2003/PL-UBTVQH, dated March 17, 2003, on prostitution prevention and control	<p>Article 3: Glossary. Some contents of the Ordinance are not extensive and lack feasibility. These include the concepts of selling sex, buying sex, prostitution and measures for prostitution prevention and control. All lack appropriate social and technical characteristics.</p> <p>The Prostitution Ordinance barely mentions harm reduction in the prevention and control of prostitution or drugs in HIV/AIDS prevention. It also does not clearly reveal the state's policies regarding prostitution prevention and control.</p> <p>There are limitations and shortcoming of this law which is apparently due to the limited knowledge and technical skill of the authors, such that their explanation of "nature and level of violation" of the</p>	<p>The Law on Prostitution Prevention and Control Project was made part of the National Assembly's "Law and Ordinance-Making Program" in 2013. Thus, <i>now is a good time to develop a Law on Prostitution Prevention and Control</i> that is in the spirit of the Law on Handling Administrative Violations with a harm reduction approach.</p>

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	<p>subjects is not understandable.</p> <p>The contents of the Ordinance do not show specific solutions for the targeted groups, such as employment or the prevention of STDs when engaged in prostitution. The Ordinance does not clarify the responsibilities of the CPC in supporting the target groups in their integration into the community after they've completed their punitive sanctions for the offense of selling sex</p>	
<p>Article 2, Article 7, Article 11, Article 15 Article 23, Prostitution Ordinance</p>	<p>To make the Prostitution Ordinance consistent and synchronous with regulations in the HIV/AIDS Law and to propose that a revision be made to include an exclusive regulation in Article 2 of the Prostitution Ordinance. However, research results show that some of the contents relating to the HIV/AIDS Law and Prostitution Ordinance are inconsistent. Specifically: Article 4 of Decree No. 108/2007/NĐ-CP stipulates that the method of provision and guidance for condom use is a harm reduction intervention. This method is directly related to prostitution prevention and control. However, in the Prostitution Ordinance, the regulation about this point does not match the spirit of the HIV/AIDS Law. Specifically, Article 2 of the Prostitution Ordinance considers the act of selling or distributing condoms in hotels, guesthouses, lodging settings, etc. to be facilitating prostitution, organizing prostitution or “abetting” prostitution. Therefore, this regulation of the Prostitution Ordinance is not consistent or synchronous with the HIV/AIDS Law.</p> <p>Article 3 of the HIV/AIDS Law stipulates principles</p>	<p>Revise the exclusive regulation in Article 2 of the Prostitution Ordinance to provide that condom selling and distribution in hotels, guesthouses, lodging settings, etc. is not considered evidence of position or facilitation for prostitution.</p> <p>A separate Article should be developed on the principle of prostitution prevention and control that stipulates close cooperation between HIV prevention and control and drug and prostitution control. It will serve as the basis for developing additional content of the Ordinance and it will express more clearly the points of view of the Party and Government regarding the prevention and control of social evils.</p> <p>The specific responsibilities of the relevant organizations, agencies should be identified in undertaking assigned duties to ensure an integration of education on the prevention and control of HIV, drugs and prostitution.</p> <p>Adapt the regulation to be included in the Law on Handling Administrative Violation (2012).</p>

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	<p>in HIV prevention and control including the principle of closely combining HIV prevention and control with drug and prostitution control. However, the Prostitution Ordinance restricts itself to the principle of combining fighting against prostitution and without specifying how this would work in practice-- According to Article 12 of the HIV/AIDS Law, MOLISA is responsible for giving instructions about IEC activities on HIV/AIDS prevention and control in healthcare facilities. However, regarding communication and education in HIV/AIDS prevention and control, the Prostitution Ordinance does not stipulate the groups targeted for communication on prostitution prevention and control, or the responsibilities of the agencies in charge of information and communication in giving instructions to the media in regular IEC activities on prostitution prevention and control in order to integrate prostitution programs with HIV prevention and control, and the other IEC programs.</p> <p>The new Prostitution Ordinance only stipulates that the owners and managers are responsible for signing labor contracts, labor registration and regular health checkups for the laborers, but it does not stipulate the responsibilities of the owners and managers of service providers in cooperating with the HIV/AIDS agencies in their locality for IEC activities on HIV/AIDS prevention and control, and carrying out harm reduction interventions that are suitable HIV prevention activities for the service users in their establishment as mentioned in Article 16 of HIV/AIDS Law. Article 16 of the HIV/AIDS Law states: "The owners and managers of enterprises that provide lodging services, parking for vehicles,</p>	

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	<p>ships and boats, and tourism or other social and cultural services, are responsible for cooperating with the agencies in charge of HIV/AIDS in the locality in order to provide information about HIV/AIDS and provide suitable harm reduction services in HIV prevention for the service users in their own setting.”</p> <p>Article 23, Prostitution Ordinance: depending on the nature and level of the violation, SWs are punished with administrative punitive sanctions, reeducation in the commune, or they are placed in an educational center. For the time being, Article 2 in the 2012 Law on Handling Administrative Violations (effective July 1, 2013) and Resolution No. 24/2012/QH 13 of the National Assembly, dated June 20, 2012, do not make use of commune-based reeducation or placement in educational center for SWs.</p>	
Prostitution Ordinance	<p>The Ordinance suggests different measures for HIV prevention and control such as IEC for prostitution control and socioeconomic measures, however, the contents of the suggested measures are not sufficient. They are principles without a mechanism for the execution of practical measures. E.g. IEC for prostitution prevention and control mention only the contents of communication and the responsibilities of organizations and agencies rather than the objectives, requirements and targeted groups for communication. Regarding socioeconomic measures, the Ordinance mentions only vocational training and treatment for SWs but not measures such as counseling or social services.</p>	<p>The Ordinance should be complemented with articles that stipulate such solutions as employment opportunity and prevention of STDs , including HIV, through prostitution.</p> <p>Add the CPC’s responsibility to supporting SWs as they integrate back into the community.</p>

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	<p>The contents of the Ordinance do not show specific solutions for the target groups such as employment opportunity or prevention of STDs when engaged in prostitution. The CPC's responsibilities in supporting SWs as they integrate into the community after completing administrative punitive sanction are not mentioned.</p>	
<p>Article 1, Article 14, Article 23, Governmental Decree No. 178/2004/NĐ-CP, dated October 15, 2004, detailing the execution of some articles in the Prostitution Ordinance</p>	<p>The Decree is to serve as a guide to execute the Ordinance but it is not clear. Concepts are rather vague in the Ordinance. Evidence to be used to determine the "nature, level of violation, personal status of the violators, extenuating circumstances or aggravating penal liability when deciding the official penalty" is not specifically defined. It is really difficult to differentiate "administrative violation" from Penal Code.</p>	<p>Revise Governmental Decree No 178/2004/NĐ-CP, dated October 15, 2004, to include details in several articles of the Prostitution Ordinance. Definitions or explanations are needed to clarify inaccurate or unclear terms and concepts in the Ordinance. The regulation in the Ordinance stipulating that violators should be sent to medical treatment establishments should be aborted.</p> <p>Revise and complement the regulation on administrative sanctions to bring it into compliance with the Law on Handling Administrative Violations.</p>
<p>International commitment, UN Convention on the Rights of the Child (UNCRC) (1989) Item 4, Article 18, Governmental Decree No. 178/2004/NĐ-</p>	<p>According to Article 2, National Assembly Resolution No. 24/2012/QH13, guiding the execution of the Law on Handling Administrative Violations, reeducation at communes for SWs is no longer applied.</p> <p>Regarding international commitment, UNCRC 1989 recommends that child SWs should be considered victims and should not be punished.</p>	<p>Abort this regulation to match the 2012 Law on Handling Administrative Violations.</p>

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<p>CP, dated October 15, 2004, detailing the execution of some Articles in the Prostitution Ordinance. National Assembly Resolution No. 24/2012/QH13, , providing guidance for the 2012 Law on Handling Administrative Violations</p>		
<p>Prostitution Ordinance NĐ 178/2004/NĐ-CP NĐ 61/2011/NĐ-CP 2012 Law on Handling Administrative Violations</p>	<p>The solution of “sending SWs to health facilities” is, for the time being, difficult to put into practice. Excluding those with serious health problems who have a certificate issued by a medical treatment establishment at the district level or higher, Decree No. 61/2011/NĐ-CP adds “AIDS patients in the final stage” to the list of people exempted from being sent to a medical treatment establishment.</p>	<p>IEC measures should be strengthened to disseminate laws and complement more regulations about providing counseling on HIV prevention and control, in addition to counseling on STIs in Decree No. 61/2011/NĐ-CP.</p>
<p>Article 3 K1 (d) Governmental Decree 163/2003/NĐ-CP, dated December 19,</p>	<p>There are conflicts with Article 2, Item 1 in National Assembly Resolution No. 24/2012/2013, dated June 20, 2012, and the execution of the Law on Handling Administrative Violations. For the time being, SWs are not being required to undergo reeducation at the commune level and they’re not</p>	<p>Remove the regulation in Article 3, Item 1, that requires the application of administrative sanctions for SWs.</p>

Document	Analysis	Suggested Modification / Change
<p>2003, detailing the execution of educational measures applied at the commune level</p>	<p>being sending to medical treatment establishments. People charged with the act of prostitution will be punished with administrative sanction according to law.</p>	
<p>Decree No. 142/2003/NĐ-CP, stipulating the application of administrative sanctions, i.e. sending SWs to an education setting; Decree No. 66/2009/NĐ-CP, on amending and revising some articles in Decree No. 142/2003/NĐ-CP and Decree No. 118/2010/NĐ-CP</p> <p>Resolution No. 24/2012/QH13, guiding the execution of the Law on Handling Administrative Violations</p>	<p>Conflicts with Article 2, Item 3, National Assembly Resolution No. 24/2012/QH13, dated June 20, 2012, on executing the Law on Handling Administrative Violations. Currently, the following are not sent to an educational setting for law-breaking due to their young age:</p> <ul style="list-style-type: none"> a) People aged 12 up to 14 years who appear to have unintentionally committed extremely or especially serious crimes as stipulated in the Penal Code; b) People aged 12 up to 14 years who have committed a crime as stipulated in the Penal Code and who experienced reeducation at the commune level or who do not have a stable residence; c) People aged 14 up to 16 years who have committed a less serious crime or serious crime unintentionally, as stipulated in the Penal Code, who have experienced reeducation at the commune level or who have not, but do not have stable residence. <p>4. Law breaking adolescents who are exempt from being sent to school, an educational setting or a medical treatment establishment are those who are pregnant and have a hospital certificate and those who are the sole caregiver of a child who is less</p>	<p>Remove the regulations that are inconsistent with Resolution No. 24/2012/QH13.</p>

Document	Analysis	Suggested Modification / Change
	than 36 months old, as certified by their local CPC.	
Decree No. 142/2003/NĐ-CP Decree No. 66/2009/NĐ-CP dated August 1, 2009	<p>Educational schools for law-breaking adolescents are one kind of freedom dispossession. According to the UNCRC 1989, freedom dispossession is the most severe sanction that can be given to a law-breaking adolescent. For this reason, this kind of education should be applied only as a final option for adolescents who commit serious violent crimes or have a history of recidivism. After implementing UNCRC for over 20 years, Vietnam has in some ways become a lower middle-income country. It's time to reconsider sending law breakers to an educational school and replace this with community-based sanctions.</p>	<p>The age of law-breakers to be sent to educational schools should be made clear. To match the UNCRC, the age cannot be too young. Very young law-breakers should be required to enter community-based school. The level of crime to be committed before being sent to an educational school should be clarified.</p>
Prostitution Ordinance 2012 Law on Handling Administrative Violations	<p>The Prostitution Ordinance and relevant legal documents mention only female SWs, and no other category of SWs, including transsexual, homosexual or male SWs.</p> <p>The existence of prostitution is persistent and complex. While prostitution by transsexual, homosexual and male SWs becomes more open and drastic, there is no regulation to restricting the activities of these people. They are a potential source of HIV and they are susceptible to HIV infection at the same time. At this time it's difficult to communicate with and disseminate information about the HIV/AIDS Law to these people.</p>	<p>Laws on prostitution involving SWs and sexual clients who are homosexual, transsexual and male should be supplemented.</p> <p>The concept of prostitution should be clarified in the 2012 Law on Handling Administrative Violations, and the definition of selling sex and categories of SWs should be revised.</p>
Đ4; Đ14; Đ21; Đ22; Đ23; Đ24; Đ26, Prostitution Ordinance	<p>Article 23 about handling SWs: "<i>SWs who are aware that they are HIV positive and who intentionally transmit HIV to other should either get community-based education or be sent to a medical treatment establishment.</i>"</p>	<p>Penalties for "<i>sexual clients</i>" should be set higher in the Prostitution Ordinance.</p> <p>Penalties should be provided for those who engage in prohibited acts such as "<i>indemnifiers,</i>"</p>

Document	Analysis	Suggested Modification / Change
<p>Article 15, Decree 178/2004/NĐ-CP</p>	<p>Article 22: <i>“The punishment for a sex client is either a warning or a cash fine, depending on the nature and level of the violation.”</i> The penalty for being a sexual client is low and that is unfair to the SWs.</p> <p>There is a lack of punitive sanctions to discourage prohibited acts as the <i>“indemnifiers and pimps”</i> of Article 4 and Article 24 in the Ordinance. There’s also no administrative penalty for people who engage in behavior deemed <i>“pornographic,” “sexually stimulating,” “other sexual actions,” “obscene,”</i> or associated with sexual abuse; tolerance, concealment, or ‘a lack of a sense of responsibility’, according to Article 29. Organizations or individuals who disseminate, store or circulate products with pornographic contents or forms are mentioned in Article 26.</p> <ol style="list-style-type: none"> 1) The lack of regulation regarding policy and mechanism to put in place preventive measures moots Article 14’s mention of socioeconomic measures. Article 21 covers the discovery, accusation and fight against prostitution. 2) The lack of regulations hinders the authority’s ability to handle administrative sanctions regarding permit and licenses issued by the Provincial People Committee, as presented in Article 15. <p>Decree 178/2004/NĐ-CP guides the execution of some of the articles in the Prostitution Ordinance.</p>	<p><i>“pimps in prostitution,” pornography,” “sexual stimulation”, “other sexual actions”</i> and anything deemed <i>“obscene.”</i></p> <p>Additional policies and mechanisms are needed to modify the preventive measures of Article 14’s socioeconomic measures, and Article 21’s discovery, accusation and fight against prostitution.</p> <p>Empower authorities to handle administrative sanctions regarding possession of a license or permit issued by the Chairman of PCP, as presented in Article 15, Decree 178/2004/NĐ-CP.</p>

Document	Analysis	Suggested Modification / Change
<p>Decree No. 135/2004/NĐ-CP, stipulating situations under which subjects can be sent to medical treatment establishments according to the Ordinance on Handling Administrative Violations and penalties for adolescents, and people who are willing to go to a medical treatment establishment</p> <p>Governmental Decree No. 61/2011/NĐ-CP: a revision and amendment to some articles in Decree No. 135/2004/NĐ-CP</p>	<p>Article 2, K2: some measures are no longer suitable: sequestration according to administrative procedure to verify details while handling SWs; capture subjects who have evaded being sent to a medical treatment establishment; and sending a person, temporarily, to a medical treatment establishment before a decision was made on that person case. . At this time, it is not appropriate to hold an SW who was caught in the act for 15 days. . Capturing an SW who has evaded authorities and then sending that person to a medical treatment establishment is neither suitable nor necessary. It is unreasonable to send every SW who is arrested to a medical treatment establishment because not all of them have health problems. Policy to support these subjects, backed by laws, is also unclear making it very difficult to provide care, education, medical treatment or vocational training at the centers. Most of those taken return to sex work after they leave the medical treatment establishment.</p>	<p>Revise and supplement documents that do not match the Law on Handling Administrative Violations.</p> <p>Issue documents relating to policies to support SWs in their integration into the community, deploy harm reduction interventions and formulate models to help the former female SWs reintegrate into the community.</p>
<p>Law on Corporate</p>	<p>Decree No. 122/2011/NĐ-CP stipulates tax exemptions that are available to corporations with</p>	<p>Decree 122/2011/NĐ-CP should be revised to specify categories of employees who are people</p>

Document	Analysis	Suggested Modification / Change
<p>Income Taxation Decree No. 122/2011/NĐ-CP</p>	<p><i>“Income generated from production, business with a commodity, and services of corporations of which 30% of their employees are people with disabilities, detoxified and PLHIV. Corporations that are entitled to a tax exemption are those that employ an average of ≥ 20 employees in a year, excluding corporations doing business in finance and real estate. Tax free income stipulated in this item does not include “other income” as stated in point 2, item 1, Article 1 in this Decree.”</i></p> <p><i>“Considered is income from vocational training for ethnic minority trainees, people with disabilities, children in especially difficult circumstance, subjects of social evils, people being detoxified, , detoxified people and PLHIV. In case the vocational training institutions have other categories of trainees besides the special categories mentioned above, tax exempted income is prorated considering the special trainees as a percent of the total number of trainees”</i></p> <p>This regulation is not feasible because in fact, it is very difficult for a corporation to hire this proportion of needy people. In particular, this regulation is not fair to companies that have fewer than 20 employees.</p>	<p>with disabilities, detoxified or PLHIV. Alternatively, the Decree could allow a calculation of the proportion of workers who are tax exempt, with progressive taxation. E.g. corporations with 10% special category people are entitled to have tax exemption of ...%, if 20% of the employees its entitled to ...%, and with > 30% the company’s entitled to%, etc.</p>
<p>- K3-Đ2 Decision No. 60/2007/QĐ-TTg - TT 101/2007/TT-</p>	<p>K3-Đ2 Decision No. 60/2007/QĐ-TTg: <i>“The Minister of Health and the Chairmen of the PPC stipulate the structure and organization for this Fund.”</i> Though the Ministry of Health issued Circular No. 101/2007/TT-BTC guiding management and use of funds to support PLHIV, so far there is no legal</p>	<p>Issue a legal document to stipulate specific regulation regarding structure and organization of the fund that would support PLHIV to ensure transparency.</p>

Document	Analysis	Suggested Modification / Change
BTC	document to specify K3-Đ2 Decision No. QĐ 60/2007/QĐ-TTg mentioned above.	
Law on Handling Administrative Violation 2012	<p>According to 2012 Law on Handling Administrative Violations, SWs can pay a fine rather than be forced to go to a medical treatment establishment. This change is in response to the fact that many SWs that were being sent to medical treatment establishments did not have health problems. Moreover, this was a severe punishment, not suitable for the nature or level of the violation and it does not ensure equity in handling. It is thought that a cash fine is acceptable in the same way as a cash fine for sexual clients is acceptable, according to the Prostitution Ordinance.</p> <p>However, if SWs are no longer going to be sent to medical treatment establishments, the risk increases regarding prevention and control of social diseases, especially HIV/AIDS and STIs.</p>	<p>Reasonable fine scale should be set for sexual clients. The amount of the fine should be set for all related parties (sexual clients, SWs and the organizers of prostitution) rather than setting the fine amount for only one party.</p> <p>A list of health problems (and the severity of each disease) that needs to be sent to medical treatment establishments should be made.</p>
Article 2, K4, K5 Article 8, K3, Law on the Prevention and Control of Viruses that Cause Acquired Immune Deficiency Syndrome (HIV/AIDS) Article 17, 1992 Constitution	<p>The terms “stigma” and “discrimination” should be clearly distinguished. Article 2, K4 and 5 in the HIV/AIDS Law, clearly define “stigma” and “discrimination”, in which:</p> <p><i>“Stigmatization against an HIV-infected person is an attitude of contempt or it is disrespect towards a person because of the awareness or suspicion that that person is infected with HIV or has close relationship with someone who is HIV-infected or is suspected of being HIV-infected.”</i></p> <p><i>Discrimination against an HIV-infected person is an act of alienation, refusal, isolation, maltreatment, disgrace, prejudice</i></p>	<p>The 1992 Constitution has been changed in the draft revised version. However, a separation should not be made between stigma and discrimination.</p> <p>Specifically, Article 17, K2, in the Constitution, should be revised to become: <i>“No one should suffers from stigma or discrimination in any I respect, political, civil, economic, social life due to ethnicity, gender, age, language, religion, family or social position, property, residence, health status or for any other reason”⁽¹⁾</i></p> <p>(1) comments collected from the marginalized group in the workshop for revising the Constitution</p>

Document	Analysis	Suggested Modification / Change
<p>and 1992 draft of revised Constitution</p>	<p><i>or a restriction of the rights of another person because of an awareness or suspicion that the person is infected with HIV or has close relationship with an HIV-infected or suspected HIV-infected person.</i></p> <p>However, under the Constitution, which has the function of protecting and promoting human rights, citizen rights have a different definition of discrimination, for example than in Article 17 in the 1992 Constitution: <i>“Every citizen has the right to be equal before the law and free from discrimination.”</i></p> <p>In the draft of the revised Constitution, Article 17:</p> <p><i>“1. Everybody is equally protected by the law. 2. No one experiences discrimination in their political, civil, cultural and social life.”</i></p> <p>The Constitution does not stipulate a meaning for stigma but it probably identifies “stigma” with “discrimination.”</p>	
<p>Đ14, HIV/AIDS Law</p> <p>Chapter XI, Labor Code</p>	<p>Đ14, HIV/AIDS Law: <i>“Employers are responsible for arranging jobs suitable to the health and professional qualification of the HI infected laborers and, employers should facilitate employees’ participation in HIV/AIDS prevention and control activities.</i></p> <p><i>Employers are not allowed to terminate the labor or job contract of an employee or cause difficulties to this person in his/her work on the grounds that that a person is infected with HIV.</i></p>	<p>Add PLHIV laborers to the list of all categories of marginalized groups in the Labor Code to ensure that PLHIV have access to their legitimate benefits.</p>

Document	Analysis	Suggested Modification / Change
	<p>However, in Item VI, of the revised Labor Code of 2011, the only laborers mentioned are adolescents, the aged and the disabled, and not the PLHIV. Given this, it's very difficult to ensure benefits for PLHIV laborers.</p>	
DOCUMENTS RELATED TO THE ROLE OF CIVIL SOCIETY ORGANIZATIONS		
<p>Article 19, Law on HIV Prevention and Control (HIV/AIDS Law) Article 16, HIV/AIDS Law</p>	<p>Vietnam does not regulate the registration as a legal entity of self-help groups that exist in the network of people living with HIV/AIDS (PLHIV) and the most at risk populations (MARPs), or the HIV/AIDS prevention support community. Therefore, these groups find it very difficult to register as a legal entity in order to receive fund for activities (<i>to be eligible to register as a legal entity, a group must register as a technology related organization, a firm or a household</i>).</p>	<p>Issue regulations on registration as a legal entity, and registration to operate a community based organization (CBO)/self-help group in the PLHIV network for MARPs and in the HIV/AIDS prevention and control support community.</p>
<p>Article 19 and Article 16, HIV/AIDS Law</p>	<p>Vietnam has no regulations stipulating registration as a legal entity registration for self-help groups in the PLHIV network or those doing community support in HIV/AIDS prevention and control. Therefore, it is difficult for these groups to register as a legal entity in order to receive funding for operation (<i>to be eligible to register as a legal entity, these groups have to register as a technology organization, a business or a household</i>).</p> <p>Other than a few regulations related to the implementation of some HIV prevention and control activities, no regulations discouraging stigmatization or offering protection of MSM, PWIDs, or SWs exist</p>	<p>Promulgate regulations on registration as a legal entity to enable self-help groups in the PLHIV network to operate and provide community support for HIV/AIDS prevention and control activities.</p> <p>Add regulations that prohibit stigmatization and discrimination towards MSM, PWIDs and SWs.</p>

Annex B: Terms of Reference for HIV policy review consulting firm

The USAID/HPI project has been implementing activities since 2008, assisting and collaborating with the efforts of the Government of Vietnam, USG civil society organizations (CSOs) and other stakeholders to develop and implement evidence-based and best practice-driven laws, policies, plans and programs for HIV/AIDS prevention, care and treatment, and impact mitigation in Vietnam. The project aims to achieve three key results:

- 4) Facilitate the adoption and implementation of national and local HIV/AIDS policies, plans and programs based on international best practices;
- 5) Strengthen and support effective public sector and civil society advocates and networks to assume leadership in the policy process; and
- 6) Develop and deploy timely and accurate data for evidence-based decision making.

In recent years, Vietnam has developed and put into practice many legal and policy documents related to HIV/AIDS prevention and control including policy documents on drugs and sex work. The HIV/AIDS law and Decree 108 provide a strong foundation for human rights - and evidence-based HIV/AIDS policies and programs in Vietnam. However, despite continued efforts the legal and policy frameworks on HIV/AIDS related to drug use and sex work are still incomplete and continue to suffer from gaps and inconsistencies in content and implementation. Harmonizing legal documents remains critical to an effective and sustainable HIV/AIDS response in Vietnam.

USAID/HPI Vietnam is seeking a qualified Vietnamese organization to carry out the review of HIV/AIDS related policies including the implementation of HIV/AIDS law. Work must be finalized by 30 June 2013.

The policy review will focus on the following aspects:

- Relevance, effectiveness, and implementation status of key legal and policy documents, including the HIV/AIDS law;
- Conflicts between current legal documents and consequences to implementation and barriers to harmonization of current legal documents on HIV/AIDS and related issues;
- New and/or revised HIV/AIDS-related legal and policy documents needed to achieve a comprehensive, effective and sustainable HIV/AIDS response;
- New and enhanced existing partnerships with government, party, civil society and other stakeholders to advocate for and achieve needed legal and policy improvements;

- Recommendations to improve the HIV/AIDS law and related policy documents

Methodology

The review will employ desk review, key informant interviews and focus group discussion. The selected institution will collaborate with the USAID/HPI project to conduct the review. Potential key informants will be selected from central, provincial to community levels.

Expected deliverables

- Final report with a focus on
 - *Relevance*
 - *Key issues for implementation*
 - *Clearly defined roadmap towards harmonization of HIV/AIDS legal documents.*
 - *Recommendations on development/revision of HIV related policies and legal framework including HIV/AIDS law*
- Policy implementation barriers and proposal to working to remove those barriers
- Draft policy brief on the plan for harmonization of legal and policy documents and agenda for revised/new legal documents.
- Five-year agenda and schedule for developing and/or revising key HIV/AIDS related legal documents and policies.

Required Qualifications: The selected contractor must have:

- Strong qualitative research experience in HIV related policy development and review.
- Knowledge of the policy making process in Vietnam.
- Demonstrated experience in conducting similar studies
- Experience working with high level Vietnamese officials, line ministries, community-based organizations and MARPs.
- Track record of meeting deadlines.

The selected contractor will be responsible for all data collection, data analysis, and report writing.

Annex C: List of reviewed, referred documents

Documents issued by the National Assembly

1. UN International Convention on the Rights of the Child 1989; dated February 20, 1990; The National Assembly;
2. Convention No. 182 dated June 17, 1999; The National Assembly; 1999 Convention on the Worst Forms of Child Labor
3. Law No. 15/1999/QH10; dated 21 December, 1999; The National Assembly; Penal Code, 1999
4. Law No. 23/2000/QH10; dated 12 September, 2000; The National Assembly; Law on Drug Prevention and Control
5. Ordinance No. 44/2002/PL-UBTVQH10; dated 7 February, 2002; The National Assembly Standing Committee; Ordinance on Handling of Administrative Violation
6. Law No. 01/2002/QH11; dated 16 February, 2002; The National Assembly; State Budget Law
7. Ordinance No. 10/2003/PL-UBTVQH11; dated 14 March, 2003; The National Assembly Standing Committee; Prevention and Control of Sex Work
8. Law No. 36/2005/L-QH11; dated 14 June, 2005; The National Assembly; Commercial Law
9. Law No. 33/2005/L-CTN; dated 12 December, 2005; The National Assembly; Enterprise Law
10. Law No. 16/2008/QH12; dated 3 June, 2008; The National Assembly; Law to amend, revise a number of articles of Drug Control Law
11. Law No. 40/2009/QH12; dated 23 November, 2009; The National Assembly; Law on Medical Examination and Treatment
12. Law No. 15/2012/QH13; dated 20 June, 2012; The National Assembly; Law on Handling Administrative Violation 2012
13. Resolution No. 24/2012/QH13 dated 20 June, 2012 by the National Assembly promulgating the implementation of Law on Handling Administrative Violation

14. Law No. 64/2006/QH11; dated 29 June, 2006; Law on Prevention and Control of Human Immunodeficiency Virus (HIV Law)

Documents issued by the Government

15. Resolution No. 5/1993/CP; dated 29 January, 1993; Control and Prevention of Sex work
16. No. 34/1996/CP; dated 1 June, 1996; The Government; Guidelines for implementation of Ordinance for HIV Prevention and Control
17. Decision No. 61/2000/QD-TTg; dated 5 June, 2000; Prime Minister; Establishment of the National Committee for AIDS, Drug and Sex work Prevention and Control.
18. Decree No. 60/2003/ND-CP; dated 6 June, 2003; The Government; Detailing and guiding for implementation of State Budget Law
19. Decree No. 76/2003/ND-CP; dated 27 June, 2003; The Government; Promulgating and guiding for the application of sending people to educational settings
20. Decree No. 178/2004/ND-CP; dated 15 October, 2004; Promulgating the implementation of a number of articles in the Ordinance for Sex work Prevention and Control
21. Decree No. 142/2003/ND-CP; dated 24 November, 2003; on implementation term of inmates at the reformatory school
22. Decree No. 163/2003/ND-CP; dated 19 December, 2003; The Government; Detailing the implementation of commune-based educational measures
23. Decree No. 178/2004/ND-CP; dated 26 June, 2004; The Government; Detailing the implementation of a number of articles in the Ordinance for Sex work Prevention and Control
24. Decree No. 135/2004/ND-CP; dated 6 October, 2004; The Government; prescribing the regime on application of the measure of consignment to disease treatment establishments according to the Ordinance on Handling Administrative Violation and regime for juveniles and voluntary people to the medical treatment establishments
25. Decree No. 45/2005/ND-CP; dated 6 April, 2005; The Government; Promulgating the handling of administrative violation in medical environments

26. Resolution No. 05/2005/NQ-CP; dated 18 April, 2005; The Government; on Socialization of educational, medical, cultural and sporting activities
27. Decree No. 43/2005/ND-CP; dated 4 May, 2005; The Government; Sending PWIDs and SWs who do not have permanent residence to medical treatment establishments for temporary residence
28. Decision No. 313/2005/QD-TTG; dated 02 December, 2005; Prime Minister; Some regimes for PLHIV and those who directly manage, treat and care for PLHIV in the public social welfare establishments
29. Directive No. 54/2005/CT-TW; dated 30 November, 2005; The Central Party; Strengthening leadership in HIV/AIDS prevention and control in new context
30. Decree No. 114/2006/ND-CP; dated 10 March, 2006; The Government; Handling Administrative Violation on population and children's issues
31. Decree No. 53/2006/ND-CP; dated 25 May, 2006; The Government; Promotion of non-public service providers.
32. Decision No. 52/2006/QD-TTG; dated 3 August, 2006; Prime Minister; Decision No. 52/2006/QD-TTG dated 8 March, 2006 by the Prime Minister on the approval of intersectoral cooperation in sex work prevention and control for 2006-2010 period
33. Decision No. 255/2006/QD-TTg; dated 9 November, 2006; Prime Minister; approval of the National Strategy on preventive medicine till 2010 with a vision to 2020
34. Decree No. 67/2007/ND-CP; dated 13 April, 2007; Promulgating policy supporting the beneficiaries of social welfares
35. Decision No. 60/2007/QD-TTg; dated 7 May, 2007; Prime Minister; Establishment of Fund to support PLHIV
36. Decree No. 108/2007/ND-CP; dated 26 June, 2007; The Government; Detailing the implementation of a number of articles in HIV Law
37. Decision No. 96/2007/QD-TTg; dated 28 June, 2007; The Government; Management, care, counseling and treatment for PLHIV and prevention of HIV transmission in the educational establishments, reformatory schools, medical treatment establishments, social medical treatment establishments, centers for beneficiaries of social welfares, detention centers, and prisons

38. Decree No. 148/2007/ND-CP; dated 25 September, 2007; The Government; Organization and operation of social and charity funds
39. Decision No. 50/2007/QD-TTG; dated 4 December, 2007; Prime Minister; Consolidation of the National Committee for prevention and control of HIV/AIDS, drugs and sex work
40. Decision No. 30/2008/QD-TTg; 22/01/2008; Prime Minister; approval of medical examination and treatment network till 2010 with a vision to 2020;
41. Decree No. 69/2008/ND-CP; dated 30 May, 2008; The Government; Promotion of socialization for activities in education, vocational training, medicine, culture, sports and environment
42. Decree No. 77/2008/ND-CP; dated 16, 7, 2008; The Government; Legal counseling
43. Decision No. 1466/QD-TTg; dated 10 October, 2008; Prime Minister; Detailed list of types, scopes, criteria of the establishments that apply socialization in education-training, vocational training, medicine, culture, sports, environments.
44. Decree No. 125/2008/ND-CP; dated 12 November, 2008; The Government; Amending and supplementing of a number of articles in Decree No. 76/2003/ND-CP dated 27 June, 2003
45. Decision No. 173/2008/QD-TTG; dated 25 December, 2008; Prime Minister; Application of necessary measures to meet requirements of ARV in emergency
46. Decree No. 66/2009/ND-CP; dated 1 August, 2009; The Government; Amending and supplementing of a number of articles in Decree No. 142/2003/ND-CP dated 24/11/2003;
47. 49. Decree No. 24/2009/ND-CP; dated 5 March, 2009; The Government; Detailing and implementation of the Law on issuance of legal normative documents
48. Decree No. 94/2009/ND-CP; dated 26 October, 2009; The Government; Promulgating detailed implementation of a number of articles in Drug Control Law regarding management for the treated drug dependents
49. Decree No. 45/2010/ND-CP; dated 21 April, 2010; The Government; Promulgating organization and management of associations

50. Decree No. 94/2010/ND-CP; dated 9 September, 2010; The Government; Promulgating home-based and community-based drug dependence treatment
51. Decree No. 118/2010/ND-CP; dated 29 December, 2010; The Government; Decree No. 118/2010/ND-CP dated 29 December, 2010 Amending and supplementing of a number of articles of the decree promulgating to send people to the educational establishments and the reformatory schools
52. Decree No. 17/2011/ND-CP; dated 22 February, 2011; The Government; Amending and supplementing of names of substances, scientific names for some substances in the list of drug and precursor substance issued in Decree No. 67/2001/ND-CP dated 01 October, 2001 by the Government and Decree No. 163/2007/ND-CP dated 12 November, 2007 by the Government on amending and supplementing of the Decree No. 67/2001/ND-CP dated 01 October, 2001
53. Decision No. 679/QD-TTg; dated 10 May, 2011; The Prime Minister; Approval of the Action Plan for Sex work prevention and control, 2011-1015
54. Decree No. 61/2011/ND-CP; dated 26 July, 2011; The Government; Amending and supplementing a number of articles in Decree No. 135/2004/ND-CP Promulgating the regime for sending the people to medical treatment establishments, organization of the medical treatment establishments according to the Ordinance on Handling Administrative Violation and regime applied for the juveniles and voluntary people to the medical treatment establishments
55. Decree No. 69/2011/ND-CP; dated 8 August, 2011; The Government; Handling Administrative Violation preventive medicine, environments medicine and HIV/AIDS prevention, control
56. Decision No. 61/2011/QD-TTg; dated 11 August, 2011; Prime Minister; exemption of land use tax and land rental tax for the agricultural land used for purpose of organizing labor and production to serve drug dependence treatment in drug detoxification centers allocated or lent by the Government
57. Decision No. 52/2011/QD-TTg; dated 21 September, 2011; Prime Minister; Issuance of Cooperation mechanism to control legal activities relating to drug
58. Decree No. 91/2011/ND-CP; dated 17 October, 2011; The Government; Handling Administrative Violation regarding child protection, care and education

59. Decree No. 93/2011/ND-CP; dated 18 October, 2011; The Government; Promulgating handling administrative violation in medicines, cosmetics and medical equipment
60. Decree No. 94/2011/ND-CP; dated 18 October, 2011; The Government; Amending and supplementing a number of articles in Decree No. 147/2003/ND-CP dated 02 December, 2003 by the Government Promulgating conditions, procedure for granting license and management of activities in voluntary drug dependence treatment
61. Decree No. 96/2011/ND-CP; dated 21 October, 2011; The Government; Handling Administrative Violation in medical examination and treatment
62. Decree No. 122/2011/ND-CP; dated 27 December, 2011; The Government; Amending, supplementing some amending and supplementing in Decree No. 124/2008/ND-CP dated 11 December, 2008 by the Government detailing and guiding the implementation of detailing and guiding the implementation of a number of articles in the Enterprise Tax Law
63. Decree No. 33/2012/ND-CP; dated 13 April, 2012; The Government; Amending and supplementing a number of articles in Decree No. 45/2010/ND-CP dated 21 April, 2010 by the Government on organization, activities and management of associations
64. Decision No. 608/QD-TTg; dated 25 May, 2012; The Prime Minister; Approval of the National Strategy on HIV/AIDS Prevention and control till 2020 with a vision to 2030
65. Decision No. 1202/QD-TTg; dated 31 August, 2012; The Government; Approval of National Target Program on HIV/AIDS prevention and control in 2012-2015
66. Decree No. 96/2012/ND-CP; dated 15 November, 2012; The Government; Promulgating treatment of opiate substance dependence with substitute substance

Documents issued by Ministry of Health (MOH)

67. Decision No. 3052/2000/QD-BYT; dated 29 August, 2000; MOH; Issuance of "Standards for laboratories to confirm HIV positive test results".
68. Decision No. 338/2001/QD-BYT; dated 2 August, 2001; MOH; issuance of regulation for organization and operation of HIV/AIDS Standing Bureau
69. Decision No. 3451/2003/QD-BYT; dated 15 August, 2003; MOH; Promulgating functions, tasks, authority and organizational structure of Department of Preventive Medicine and HIV/AIDS

70. Decision No. 2040/QD-BYT; dated 9 June, 2004; MOH; Establishment of the Advisory Council to issue working permit for the foreigners in private health facilities;
71. Circular No. 09/2005/TT-BYT; dated 28 March, 2005; MOH; Guiding conditions to identify people exposed to HIV or infected by HIV due to occupational accidents
72. Decision No. 25/2005/QD-BYT; dated 9 May, 2005; MOH; Issuance of "Promulgating about the functions, Promulgating functions, tasks, authority and organizational structure of Provincial HIV/AIDS prevention, control"
73. Decision No. 20/2006/QD-BYT; dated 7 July, 2006; MOH; Approval of National Action Plan on prevention of HIV transmission from mother to child (PMTCT)
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