



Background

Building on the work of the Global Commission on HIV and the Law, and to promote an enabling environment for achieving the 90-90-90 targets, UNDP supports regional and national-level work to remove legal barriers to accessing HIV services in sub-Saharan Africa. Covering over 20 countries, this work includes regional-level capacity building for duty-bearers and rights-holders from each country and in-country activities tailored to local realities.

Effective removal of legal barriers requires the capacity and leadership of national governments, civil society organizations (CSOs) and regional economic communities working in tandem. As a part of the larger, global project, an evaluation was conducted, including an in-depth case study of the impacts of this project in Malawi.

Malawi HIV Context:

- ❖ Between 2010 and 2018, there was a 55% decrease in AIDS-related deaths and 31% decrease in new HIV infections. Early infant HIV diagnoses were over 95% by 2018.
- ❖ In 2018: It is estimated that 1,000,000 Malawians were living with HIV of whom 90% knew their status, 78% were on treatment, and 69% were virally suppressed.
- ❖ HIV prevalence still disproportionately affects key populations, in particular people engaged in sex work (60% in 2017), prisoners (16% in 2018), and men who have sex with men (7% in 2018).

Human Rights-Based Framework

- ❖ Principles of inclusion, participation, equality, non-discrimination and accountability
- ❖ Process of project implementation
- ❖ Maximizes longer-term impact and sustainable change

Description

Methods:

A baseline evaluation was conducted in 2016 that revealed a host of challenges posed by the legal environment in Malawi — including problematic laws, insufficient knowledge and implementation of appropriate laws, and some conflicts in law.

In 2019-20, we conducted an end-line evaluation on the impacts of the project's work. Tools included a desk review of the literature and relevant project documents, and 15 semi-structured key informant interviews with stakeholders including civil society representatives, government officials, and UNDP staff working in Malawi. Standardized data collected from the desk review and qualitative data collected through key informant interviews were analyzed together.

Lessons Learned

Positive changes to the legal and policy environment were directly impacted by both regional and national level activities.

Regional activities:

Regional Judges' Forum; and Capacity building of National Human Rights Institutions, parliamentarians and lawyers.

Regional Success Factors:

- ❖ Bi-directional knowledge transfer
- ❖ Action stimulated by "friendly competition" with regional peers
- ❖ Inclusion of individuals administratively linked to parliamentarians and others also engaging regionally

Participant of Regional Judges' Forum:

- ❖ "... a space [for the judges] to investigate their own biases against clients they're serving by really interacting with key populations."

Participant of National Human Rights Institutions' Regional Capacity Building Workshop Addressing Legal Barriers to Accessing HIV Services:

- ❖ "I believe that my eyes were opened... this meeting was different... it was based on facts, evidence and human rights. I thought to myself that I cannot keep this knowledge to myself."

National Level Activities

Participatory legal environment assessment; Community mobilization and advocacy; Investigations into HIV-related human rights violations; and Joint civil society and government efforts to improve national policies, strategies and plans.

Impact of National Activities:

- ❖ ARASA and the the Malawi Human Rights Commission (MHRC) developed tools to safely report HIV-related human rights violations, which increased collaboration between key populations, the police, Ministry of Health, and MHRC.
- ❖ Jointly owned by a multi-sectoral group, inclusive of government and civil society, the legal environment assessment influenced community mobilization and advocacy at local and subnational level, legal change, and national policies, strategies and plans.
 - In 2017, Parliament rejected provisions to the HIV & AIDS Bill that infringed on human rights, including the criminalization of "deliberate transmission" of HIV.
 - Provisions made in 2017 in the HIV & AIDS Prevention & Management Act guaranteed the rights and responsibilities of people living with HIV.

Impacts of Regional-Level Activities:

- ❖ In 2017, the High Court of Malawi overturned the conviction of a woman living with HIV for exposing a child to HIV through breastfeeding.
 - The presiding judge had attended regional judges' fora, and in making this ruling, drew on a firm understanding of HIV transmission dynamics.
 - The lawyer defending the case had received regional training and support from regional legal partners in creating strong arguments.
- ❖ Increased ability among duty bearers to understand human rights, the law, and HIV directly followed engagement in regional human rights and capacity-building workshops.
 - For instance, judges reported making more informed rulings and lawyers took up HIV-related human rights cases they had not considered prior to trainings.

Conclusion and Next Steps

- ❖ This example from Malawi shows how a mix of regional and national level activities allows for the tailoring and strengthening of activities within national contexts. Not only is the interplay between regional and national level actions needed, but links to the sub-national and the local are also necessary.
- ❖ The project design offered a range of opportunities to navigate a complex space of contentious issues and create change.
- ❖ A multi-sectoral working group consisting of representatives of government, civil society (including key population representatives) and UN agencies is an invaluable mechanism for promoting joint ownership as well as the success and sustainability of capacity-building activities.
- ❖ The human rights-based approach applied in the project and evaluation highlighted the processes used and allowed for institutionalization of the legal framework.
- ❖ Changes are sustainable if organizations can continue to access funding, and donor priorities do not shift from supporting this type of work.
- ❖ The approach used here, and lessons learned, may be applicable to all countries with legal barriers to accessing HIV and related services..

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