



*Empowered lives.
Resilient nations.*

Africa Follow-up to the Global Commission on HIV and the Law

**Strengthening Regional and National Legislative Environments for
HIV/SRHR to Support the Enjoyment of Human Rights of LGBT
People and Women and Girls in Sub-Saharan Africa – Phase II**

Organisation	United Nations Development Programme
Contact Person	Tilly Sellers, HIV, Health and Development Team Leader, Africa Regional Centre, Addis Ababa tilly.sellers@undp.org Mobile: +251 929907053
Project Location	Sub-Saharan Africa
Duration of Project	Three Years, 2016-2018
Development Objective	To strengthen Sexual and Reproductive Health and Rights in Sub-Saharan Africa
Programme Objective	Strengthen national and regional legal environments relating to HIV/SRHR to support the enjoyment of human rights of LGBT people and women and girls in Sub- Saharan Africa.

Contents

List of Acronyms.....	4
1. Background and Rationale	6
1.1 HIV Burden amongst Women and Girls and LGBT in Sub-Saharan Africa	6
1.2 Human Rights and HIV in Africa	8
1.3 The Global Commission on HIV and the Law, its findings and recommendations and its link with UNDP follow up activities on HIV, human rights and the law in Africa	8
1.4 HIV-Related Legal and Policy Environments in African Countries – the current situation	11
1.5 Following up on the recommendations of the Global Commission Report: Phase I of the Project	12
1.6 Achievements and Challenges – Phase I of the Project	15
1.7 Phase I Mid-term Evaluation.....	15
2. Proposed Project Phase II, 2016-18	17
2.1 Phase II Objectives and Results.....	20
2.2 Key Activities	21
3. Management Arrangements.....	30
3.1 Management Structure.....	30
3.2 The Project Team	32
3.3 UNDP as a Co-Sponsor of UNAIDS	32
3.4 UNDP HIV, Health and Development Team Architecture	34
3.5 UNDP Internal Fund Transfer Mechanisms.....	35
3.6 UNDP Country Office Capacity	36
3.7 Partnerships with RECs and Civil Society Organisations	37
3.8 Consultant Procurement.....	39
4. Monitoring and Evaluation	40
4.1 Proposed methodology and deliverables for Endline Evaluation.....	40
4.2 Monitoring of Activities and Outputs	42
4.3 Communications Strategy.....	43
4.4 Environmental and Social Screening.....	43
4.5 Risk Mitigation	44
4.6 Sustainability and Country Ownership.....	46
5. Results Framework.....	48

6. Summary Budget in SEK and USD	55
7. List of Annexes	56
Annex 1: 2013 Annual Report UNDP HIV Law Project (Phase I) – separate document.....	56
Annex 2: 2014 Annual Report UNDP HIV Law Project (Phase I) – separate document.....	56
Annex 3: UNDP HIV Law Project Mid Term Evaluation Report – separate document	56
Annex 4: UNDP Management, Procurement and Finance Practice – separate document	56
Annex 5: Detailed Budget – separate document	56
Annex 6: Agreed Targets– separate document	56
Annex 7: Phase II project Organogram – separate document.....	56
Annex 8: Phase II Project Focus Countries.....	56
8. References	60

List of Acronyms

ACHPR	The African Charter of Human and People's Rights
AIDS	Acquired immune-deficiency syndrome
AMShR	African Men's Sexual Health & Rights
ARASA	AIDS and Rights Alliance for Southern Africa
ASWA	African Sex Workers' Association
AU	African Union
AUC	African Union Commission
CAL	Coalition of African Lesbians
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEDEP	The Centre For The Development Of People
CSO(s)	Civil society organisation(s)
DRC	Democratic Republic of Congo
EAC	East African Community
EALA	East African Legislative Assembly
ECOWAS	Economic Commission of West African States
GHHR	Program on Global Health and Human Rights
HHD	HIV, Health and Development team in UNDP
HIV	Human immunodeficiency virus
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
INERELA+	The International Network of Religious Leaders Living with, or Personally affected, by HIV.
KELIN	Kenya Legal and Ethical Issues Network on HIV and AIDS

LEA	Legal environment assessment(s)
LGBT	Lesbian, gay, bi-sexual and transgender
MANERELA+	Malawi Network of Religious Leaders Living with or Affected by HIV and AIDS
MSM	Men who have sex with men
MTE	Mid-term evaluation
ND	National dialogue
PLHIV	People/person living with HIV
REC	Regional economic community
SADC	Southern African Development Community
SALC	Southern African Litigation Centre
SAT	Southern Africa Trust
SW	Sex worker(s)
TG	Transgender
UNDP	United Nations Development Programme
USC	University of Southern California
WAHO	West African Health Organisation (part of ECOWAS)
WLSA	Women and Law in Southern Africa Research and Educational Trust

1. Background and Rationale

In recent years, countries in sub-Saharan Africa have seen considerable impact of their responses to HIV. In Eastern and Southern Africa, the rate of new HIV infections has been reduced by more than 30% overall and by more than 50% in seven countries in the sub-region.¹ AIDS-related mortality declined by more than 50% between 2005 and 2011 in several countries² and by 39% in the sub-Saharan region between 2005 and 2013.³ The region has witnessed an expansion in the coverage of HIV treatment to a record number of people in recent years. In 2013 alone, 1.7 million additional people living with HIV received anti-retroviral therapy. Treatment is available to almost four in ten people living with HIV in the region.⁴

Aggregate national-level figures showing significant reductions in the rate of new infections and AIDS-related mortality however mask uneven progress in expanding access to HIV-related services among certain populations within countries in the region.⁵ New infections among women and girls, especially female sex workers and amongst other groups at high risk of HIV, such as transgender people, men who have sex with men and other gay men, are disproportionately high – as data from across the region shows.

1.1 HIV Burden amongst Women and Girls and LGBT in Sub-Saharan Africa

Women and girls: In 2013, almost 60% of all new HIV infections among young people aged 15–24 occurred among adolescent girls and young women. Globally, 15% of women living with HIV are aged 15–24, of whom 80% live in sub-Saharan Africa. In sub-Saharan Africa, women acquire HIV five to seven years earlier than men.⁶

Studies have consistently shown that structural factors such as gender-based violence and intimate partner violence, lack of access to healthcare and prevention services, restrictive and discriminatory practices and cultural norms as well as punitive and age-restrictive laws and policies contribute to the increased vulnerability of women and girls to HIV. A review of more than 45 studies from sub-Saharan Africa revealed that relationships between young women and older male partners are common, and that relationships with large differences in age are associated with unsafe sexual behaviour and low condom use. A study in South Africa found that young women who experienced intimate partner violence were 50% more likely to have acquired HIV than women who had not experienced violence. Evidence further shows that punitive and age-restrictive laws and policies present barriers to young women accessing health services, including sexual and reproductive health services. These include, for example, laws that govern the age of consent for HIV testing and access to sexual and reproductive health services and the criminalisation of HIV non-disclosure, exposure and transmission.⁷ In addition, despite national laws in many countries of the region that stipulate 18 years as the minimum legal age for women to marry without parental consent, state or customary laws allow girls younger than 18 to marry with the consent of their parents or other authorities. There is also little protection against marital rape in countries in Africa.

In the Gap Report (2014), UNAIDS strongly advocates that *“Discriminatory laws that present obstacles to the realization of young women’s rights, including their sexual and reproductive rights, must be revoked to reduce new HIV infections, AIDS-related deaths and gender based violence and to improve adolescent girls and young women’s sexual and reproductive health. It is especially important to remove mandatory parental or spousal consent requirements for accessing sexual and reproductive health and HIV services.”*

Lesbian women are also vulnerable to HIV. While very little HIV transmission results from sex between women, structural factors, including sexual violence, may make **lesbians** and other women who have sex

with women more at risk of acquiring HIV than would otherwise be thought. Stigma, discrimination and lack of knowledge regarding lesbians and other women who have sex with women is also thought to make such women less able to access appropriate HIV treatment and care services if they are infected.⁸ However, violence against lesbian women has been well-documented in South Africa, where lesbian women are specifically victims of what has been termed as “corrective rape”. A review done by the Action Aid in 2009 on corrective rape in South Africa noted that such violence increased the women’s risk to HIV and sexually transmitted infection.⁹

Female Sex Workers: In sub-Saharan Africa the pooled HIV prevalence among sex workers (SW) is estimated at 36.9%.¹⁰ Seventeen of the 18 countries where HIV prevalence among sex workers exceeds 20% are in sub-Saharan Africa. However, in only very few countries, has there been nationwide scale-up of HIV programmes specifically for sex workers. Most programmes across sub-Saharan Africa have limited scale, scope and coverage. Violence, stigma and discrimination and criminalising laws and by-laws (particularly targeting sex work/sex workers) are all major contributing factors. There is “*strong evidence that the criminalisation of sex work increases vulnerability to HIV and other sexually transmitted infections.*”¹¹ We also know decriminalisation of sex work would have the greatest effect on the course of HIV epidemics across all settings, averting 33–46% of HIV infections in the next decade.¹²

Men who have sex with men: Given that data on the sizes, HIV prevalence and related behaviours of men who have sex with men in Africa are very limited, estimates are surrounded with wide uncertainty bounds¹³ and are likely to underestimate the burden of the epidemic. However, recent data point to the fact that the highest median HIV prevalence among men who have sex with men (MSM) **across regions globally** was reported in West and Central Africa (19%) and Eastern and Southern Africa (15%).

HIV prevalence amongst MSM is generally higher than among men in the general population with studies showing 11-25% prevalence in Kenya, 21% in Malawi, 20% in Botswana and 12% in Tanzania.¹⁴ The only existing incidence study from the region shows 20% incidence among MSM in Kenya. Prevailing stigma, discrimination and punitive social and legal environments based on sexual orientation and gender identity, often compounded by the limited availability of and access to sexual and reproductive health services for young people and men, are among the main determinants of this high vulnerability to HIV among young gay men and other men who have sex with men. Modes of transmission studies indicate that HIV transmission among MSM could be contributing between 1% and 8% of all new HIV infections among adults in Eastern and Southern Africa.¹⁵

Transgender people: There is very little data on transgender people and this is a barrier to their needs (and even their existence) being acknowledged and included in national HIV strategies and budgets. The few epidemiological studies among transgender (TG) persons in the region generally have shown disproportionately high HIV prevalence ranging from 6% to 68%.¹⁶ The structural risk factors which are specific to transgender women include that their identity is not recognised in law, there is a lack of protection from abuse and violence at the hands of law enforcement and there is marginalisation at all levels of the life experience: including family and social, education, employment, and health. It is understood that each level of marginalisation drives HIV risk and is often supported by existing national legal frameworks contradicting international human rights frameworks. Risk factors that transcend individual level practices have also been associated with HIV risk among transgender women including economic marginalisation, social isolation, unmet health care needs, and low HIV-related knowledge. Finally very few health care workers ranging from HIV counsellors to nurses and physicians have received

any training on addressing the specific health needs transgender people. Consequently, consistent access to competent clinical prevention, treatment, or care services is rare for people belonging to this group.¹⁷

1.2 Human Rights and HIV in Africa

Given that vulnerability to HIV is exacerbated amongst women, girls and LGBT by stigma, discrimination and punitive social and legal environments, it is important to understand what key international and regional human rights instruments African countries have signed up to.

Instruments that guarantee human rights to all individuals include the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The African Charter of Human and People's Rights, ratified by 53 African countries, recognises the right to be free from discrimination, the right to equality before the law and equal protection from the law as well as rights to health, education, work and development amongst others.¹⁸

In June 2011, with the UN Political Declaration on HIV/AIDS,¹⁹ Member States committed to reviewing laws and practices blocking effective HIV responses. They also committed to ensuring that national AIDS strategies and plans protect and promote the human rights of all people, in line with existing human rights commitments.²⁰ **The African Union (AU) Roadmap on Shared Responsibility and Global Solidarity for AIDS, TB and Malaria in Africa** launched in 2012, echoes this commitment and has identified the need for investment in programmes to overcome social and legal barriers to uptake of HIV-related health services. The concerns raised by the AU Roadmap on Shared Responsibility are also echoed in the **Global Commission on HIV and the Law's** (GCHL) report titled *Risks, Rights and Health* which was launched during July 2012. (Please see next section for details on the GCHL).

Significantly, the need to protect the rights of women, PLHIV and LGBT individuals has also been explicitly recognised by the **African Commission on Human and People's Rights** (ACHPR). For instance, the 'African Women's Protocol' specifically recognises the sexual and reproductive health rights of women in the context of HIV and AIDS. The ACHPR's Committee on the Protection of the Rights of PLHIV and those at Risk, Vulnerable to and Affected by HIV ('the PLHIV Committee') has urged for the adoption of legal frameworks to protect the rights of women living with HIV, PLHIV and other vulnerable persons and to enhance access to HIV treatment, care and support in 2013. Additionally, in 2013, the Resolution on Involuntary Sterilisation and the Protection of Human Rights in Access to HIV Services was adopted by the Commission at its 54th Ordinary Session,²¹ and a resolution ("Resolution 275") on Protection Against Violence and other Human Rights Violations Against Persons on the Basis of their Real or Imputed Sexual Orientation was adopted in 2014 during the 55th Ordinary Session.²²

1.3 The Global Commission on HIV and the Law, its findings and recommendations and its link with UNDP follow up activities on HIV, human rights and the law in Africa

In 2012, the findings of **the Global Commission on HIV and the Law** showed that stigma, discrimination and human rights violations continue to create major obstacles to effective HIV responses across the world, including in sub-Saharan Africa.²³

The Global Commission on HIV and the Law, which was an independent commission supported by UNDP, worked for 18 months seeking inputs from experts, and deliberating on and analysing more than 1000

testimonies/submissions from 140 countries across the world. Activities of the Commission included a number of regional dialogues of which the Africa Regional Dialogue on HIV and the Law, held in August 2011, was the largest. The Commission's enquiry was focused primarily in 4 areas in the context of HIV: **criminal laws, women, access to treatment and children and young people.**

Government and civil society participants at the Global Commission's Africa Regional Dialogue on HIV and the Law, held in Pretoria from August 3-4, 2011 with support from the Governments of Sweden and Norway through the Embassy of Lusaka, recognised that legal and regulatory frameworks in the region fail to adequately protect rights in the context of HIV and AIDS in a number of ways, and deliberated on ways the situation could be changed.

The recommendations from the Commission's report – *Risks, Rights & Health* – include the review and reform of laws to ensure the protection of people living with HIV, women and girls and key populations from stigma, discrimination and violence and the repeal of coercive and punitive laws that block effective HIV responses. Other steps to strengthen legal and regulatory frameworks include strengthening programmes to increase knowledge of rights and laws and to reduce stigma, discrimination and gender inequality amongst families, communities and key service providers as well as law enforcement officials. Finally, the recommendations say that efforts to strengthen access to justice should include the provision of legal support services, sensitising the judiciary, encouraging strategic litigation and working with national human rights institutions and civil society organisations (CSOs) to document, monitor and investigate human rights violations.

Specifically, in the context of LGBTI, women and girls and people living with HIV, the Commission made the following broad recommendations:

(a) Women

- Enact and enforce laws to prohibit domestic violence, rape including marital rape and sexual assault; prosecute perpetrators to full extent of law
- Prohibit forced abortion, sterilisation and other forms of violence in health care
- Reform property and inheritance laws
- Enact and enforce laws to prohibit harmful norms such as early marriage, widow inheritance, etc.

(b) Children and Youth

- Ensure every child's birth is registered, every orphaned child appointed a guardian
- Prohibit discrimination against children affected by HIV
- Enact and enforce laws to ensure orphaned children have right to parental property
- Enact and enforce right of every child to comprehensive sexual health education
- Ensure young people have safe access to health and HIV services
- Reform laws to ensure age of consent for autonomous access to HIV and SRH services is equal to or lower than age of consent for sex

(c) Men who have sex with men

- Repeal laws criminalising consensual sex between same-sex adults
- Respect existing civil and religious laws guaranteeing privacy
- Remove legal, regulatory and administrative barriers to organisations
- Promote effective measures to prevent violence against MSM

(d) Transgender Persons

- Respect existing civil and religious laws guaranteeing privacy
- Repeal laws punishing cross-dressing
- Remove legal, regulatory and administrative barriers to organisations
- Prohibit discrimination on basis of gender identity and sexual orientation)
- Ensure ID documents recognise affirmed gender.

(e) Sex Workers

- Repeal laws prohibiting sex work and use of civil / administrative offences to penalise sex work
- Stop police harassment, mandatory HIV testing
- Ensure anti-trafficking laws punish those using force, coercion
- Enforce laws against child sexual abuse as opposed to consensual adult sex work

(f) People who use drugs

- Shut down compulsory drug detention centres – voluntary services
- Abolish national registries of drug users, mandatory HIV testing & treatment
- Repeal punitive conditions e.g. ban on needle and syringe exchange programs
- Decriminalise the possession of drugs for personal use

(g) HIV related Discrimination

- Repeal punitive laws, enact protective laws
- Explicitly prohibit discrimination on the basis of actual or perceived HIV status
- Ensure that protective laws and regulations are enforced

(h) Criminalisation of HIV Transmission

- Legitimately prosecute actual and intentional HIV transmission using general criminal laws
- Pursue convictions with care and require a high standard of evidence and proof
- Review previous convictions
- Repeal laws that explicitly criminalise HIV transmission, exposure or failure to disclose HIV status and those that effectively criminalise vertical transmission.

To follow up on the recommendations of the GCHL worldwide, UNDP has focused on the following seven interventions/activities. These are:

- **Legal environment assessments** to inform legislative reform
- **Legal Reviews**
- **National dialogue and action** planning on HIV and the Law
- **Judicial sensitisation**
- **Parliamentarian sensitisation**
- **Access to justice** – law enforcement, legal services and legal/human rights literacy programs, and
- **Knowledge management** – to develop and share widely capacity building products.

In the Africa Region, UNDP, with support from the Governments of Norway and Sweden has, during the Phase 1 of this project, engaged with 19 countries to follow up on the Commission's recommendations through one or more of the abovementioned interventions. In addition, it has supported regional economic communities (RECs) to take forward the Commission's recommendations at regional level.

1.4 HIV-Related Legal and Policy Environments in African Countries – the current situation

Although countries in Africa have signed up to international and regional instruments on human rights, there is wide variation in legal and policy environments for HIV at national level. Around 35 AU Member States report having laws to protect people living with HIV from discrimination. While many of these are HIV-specific laws, only a few countries have strong HIV-related anti-discrimination legislation that is well implemented and enforced.²⁴ For instance, PLHIV Stigma Index Studies show that people living with HIV (PLHIV) continue to experience discrimination in their families, communities, clinics and workplaces. In addition, although women and girls are vulnerable to HIV and many members of key populations are HIV-positive or at higher risk of HIV exposure, there are few HIV laws which recognise their rights. There are, furthermore, limited national HIV responses that include programmes to reduce stigma and discrimination specifically targeted at MSM, sex workers or transgender people.

In some cases, punitive or discriminatory laws expressly limit the rights of these populations. For instance, in sub-Saharan Africa, around 25 countries specifically criminalise HIV transmission and/or exposure. Over 30 AU Member States criminalise same-sex relationships in some way, often with penalties of up to 14 years imprisonment. Some countries allow for life imprisonment and even the death penalty for those convicted.²⁵ Sex work, or aspects of sex work, is criminalised in 35 AU Member States.²⁶ Laws rarely recognize the right of a transgender person to have their self-identified gender in personal documentation and records,²⁷ impacting on access to employment, health care and participation in society and thereby increasing their vulnerability to HIV.^{28, 29}

Civil and customary laws that perpetuate gender inequality, limit women's autonomy and rights to property and allow harmful gender norms (such as early marriage) to continue, place women in positions where they have limited power to control over and decide freely on matters related to their sexual and reproductive health free of coercion, discrimination and violence and are at higher risk of HIV exposure. Criminal laws that fail to adequately protect populations from gender-based violence increase the risk of HIV exposure. A 2014 ARASA report on HIV & Human Rights in Southern and East Africa revealed law and

human rights challenges in the region to include ongoing HIV-related stigma and discrimination; the criminalisation of HIV transmission; gender inequality and gender-based violence (GBV) and criminal laws impacting on access to treatment for key populations.³⁰

These punitive and discriminatory laws often increase stigma and discrimination against targeted populations and discourage both provision of, and access to services.³¹ Vulnerable populations are particularly affected – for instance, women living with HIV report being thrown out of their homes, beaten, dispossessed of their property, forced to test for HIV when pregnant and coerced into sterilisation on the basis of their HIV-positive status.³² And it is widely reported that LGBT people in Africa experience widespread discrimination, which, in turn, impedes their access to HIV and health services.

Even where laws and policies are protective, populations still report difficulties in accessing and enforcing their rights due to fear, lack of awareness and legal literacy, inadequate legal support services and weak enforcement mechanisms. This is a human rights crisis in its own right; in the context of HIV it also increases the impact of the epidemic by perpetuating the impact of stigma and discrimination in relation to access to services whilst at the same time enabling countries to report on progressive and protective policy.

It is clear that law and human rights play a central role in effective HIV responses – particularly for LGBT and women and girls at high risk of HIV. Based on principles of accountability and responsibility, **there is now an urgent need to support countries to take steps to strengthen legal frameworks to protect people living with HIV and key populations who are at higher risk of HIV exposure and to promote universal access to HIV prevention, treatment, care and support. Many countries have not yet domesticated international or regional human rights instruments and it is critical now to align national legal frameworks with these existing human rights commitments so that people living with and affected by HIV, including women, girls and LGBT populations, are able to realise their rights.**

1.5 Following up on the recommendations of the Global Commission Report: Phase I of the Project

1.5.1 Legal Environment Assessments and National Dialogues and the development of knowledge products

During Phase I, the Project was initiated in 11 countries (in 2013).ⁱ Eight more countries were added to the Project in 2014.ⁱⁱ Following up on the recommendations of the Global Commission, legal environment assessments were completed in 6 countries and national dialogues in 3 countries during 2013-14.

Two guidance documents – one on how to conduct legal environment assessments and the other on how to conduct national dialogues were developed and widely disseminated and utilised during this phase.

LEAs focus on aspects of HIV and the law that may affect and/or hinder access of people to HIV services. For example, with regards to **women and girls and to SRHR and in particular regard to Sida priorities**, the LEA guidance mentions that: “The purpose of the LEA is to establish whether and/or which laws, policies and practices have been—or have the potential to be—used in the context of HIV to mitigate or

ⁱ Initial countries in 2013 were: DRC, Ghana, Kenya, Lesotho, Malawi, Mozambique, Seychelles, South Africa, Swaziland, Tanzania and Zambia.

ⁱⁱ Angola, Burkina, Cameroon, Chad, Gabon, Namibia, Nigeria and Uganda were added in 2014.

exacerbate gender inequality, and identify which laws (potentially) protect, punish and/or discriminate against women.”ⁱⁱⁱ

Therefore, within the context of women and girls therefore, **LEAs** focused on the following areas:

- **General situation on women and HIV:** What was the status of HIV policy in relation to women and HIV? Information about the vision of the national strategic plan on HIV and related health and gender policies and plans.
- **Equality and non-discrimination:** Was there an equality/anti-discrimination law? Did it prioritize gender equality? Were there employment laws protecting gender equality in the workplace? Do personal laws (e.g. marriage laws, personal status laws) provide women and men with equal rights?
- **Health rights:** Was there a health or HIV law? Did it specifically recognize the vulnerability of women to HIV? Did it specifically provide for equal access to health care without discrimination for women? Did it specifically provide for the health needs of women in the context of HIV? Does it prioritize HIV prevention, treatment, care and support for women affected by HIV (e.g. prevention of mother-to-child transmission programmes)? Does it include training on gender equality and the impact of gender-based violence within HIV information and education?
- **Protection from violence:** Was there a law prohibiting sexual violence? What forms of sexual violence were prohibited? Was marital rape prohibited?
- **Property, inheritance, marriage and family laws**
- **Harmful gender norms:** Were there harmful gender and cultural norms that increased women’s vulnerability and their risk of exposure to HIV? **For instance, were there laws and practices that allow for sexual cleansing, widow inheritance, early marriage or female genital mutilation and may place women at higher risk of exposure to HIV?** Were harmful gender norms prohibited by law?
- **Access to justice and law enforcement.**

National dialogues are “...a meeting for a range of stakeholders—primarily from government and civil society actors—to share insights and experiences on HIV, law and human rights. It is a policy space where those who influence, write and enforce laws, and those whose lives are impacted by them, engage in constructive, frank and pragmatic dialogue.”^{iv}

National Dialogues conducted during the Phase I were necessarily *evidence informed*, and ensured *participation and active engagement of all key stakeholders* (including those most marginalised and/or criminalised in the context of HIV). They endeavoured *always* to include representation from women, girls and youth, key populations and people living with HIV. These dialogues had to therefore also *ensure safety*

ⁱⁱⁱ UNDP (2014). *Legal Environmental Assessment for HIV: An operational guide for conducting national legal, regulatory and policy assessments for HIV.*

^{iv} UNDP (2014). *National Dialogues on HIV and the Law: A Practical Manual for UNDP Regional HIV Teams and Country Offices.*

and confidentiality of participants, and had to balance the interests of all constituencies and be focused on consensus building through dialogue.^v

To ensure this, as per the guidance, a national dialogue process should include at least the following:

- National Dialogue Advisory Committee whose membership must include representatives from each of the constituencies that include a national group serving women, children, or both.
- Key questions regarding women and children – including issues around violence, cultural practices, traditional practices, etc., and
- Address at a minimum women, girls', children's issues; issues related to SOGI; issues related to youth and issues related to key populations in the context of HIV (sex workers, MSM, transgender people, migrants and incarcerated populations).

1.5.2 Parliamentary and Judicial Sensitisation

During the Phase I of the project a number of activities were focused on sensitising parliamentarians and the judiciary. While results are discussed in greater detail in the following section, some of the key activities organised under this heading included:

- Engagement with the East African Legislative Assembly (EALA) members and review and of national laws, policies and strategies of EAC countries in relation to the East African HIV Prevention and Management Bill (2012) which was passed by the EALA in 2012, and has been ratified by 4 of the 5 EAC countries (except United Republic of Tanzania) by 2015.
- Engagement with national parliamentarians from DR Congo in the context of HIV, human rights and the law.
- Convening of the Africa Regional Judges' Forum on HIV, Human Rights and the Law – which organised senior judiciary initially from 7 countries (2014) and subsequently from 13 countries in 2015. One of the achievements of this Forum has been to launch an online database that contains both jurisprudence on matters related to HIV and human rights, as well as other material (academic documents, intervention guidelines, national laws, policies, bills, etc.) that will assist the judiciary in improving their understanding of HIV and rights.
- Convening a regional sensitisation of national human rights institutions from ten countries from across Africa.

1.5.3 GCHL Recommendations and the continuum between Phase I and Phase II of this Project

During the Phase II of the project, in addition to supporting countries and the Regional Economic Communities and the African Union with strengthening the legal and policy environments, the Project will also support national governments to **develop, own and effectively action plan for the recommendations emerging from the LEAs and NDs** and assign responsibility and milestones for achieving planned actions. The Phase II of the Project will also focus on **mapping of the political and cultural context**; ensure **collective dialogue and capacity building between civil society and government at country level**; and support the **AUC to support Member States to strengthen legal environments and 3 RECs (EAC, ECOWAS and SADC)**, to develop regional strategies on HIV for key populations and to ensure shared responsibility

^v *Ibid*

and long term sustainability of efforts. The Phase II will also develop additional **regional guidance** and focus more on **researching on health, HIV and human rights indicators**. The subsequent sections describe these in greater detail.

1.6 Achievements and Challenges – Phase I of the Project

This Project began with an initial agreement of SEK 21 Million for a period of 3 years (2013-15), with co-funding from UNDP. In 2013, the project provided support to eleven countries. In 2014, with additional countries requesting to become part of the project, a cost extension of SEK 2.1 Million, was agreed and the project provided financial and/or technical support to eight additional countries.

The core concept underlying UNDP's HIV theory of change is that "[e]ffective and sustainable responses to HIV require a reduction of the stigma associated with the disease and most affected populations, and a legal environment that enables access to and use of key prevention and treatment services and commodities. Such action on stigma, law and human rights in turn requires capacity to work across multiple ministries in the interest of better health outcomes, and political will to include and protect marginalized populations in policy and governance."

The 2013 and 2014 Annual Reports showed significant results achieved in all 19 countries, including conducting National Dialogues on HIV and the Law; completion of Legal Environment Assessments (LEAs); strengthened capacity in human rights and HIV amongst the judiciary, national human rights institutions, law enforcement and affected communities; greater inclusion of LGBT women and girls in LEAs and other processes; some law review and reform; and greater involvement of regional economic entities (SADC, EAC, ECOWAS) and the AUC in addressing human rights and legal challenges pertaining to HIV and AIDS. A great deal has already been achieved by the project in two short years and by the end of 2015, it is anticipated that 10 countries will have completed Legal Environment Assessment with support from this project. In addition, countries like Kenya and Zambia have integrated human rights and LGBT issues into national strategies. Malawi has reviewed both its national policy and strategy in light of LEA findings and many countries have used the LEA findings to support the development of Global Fund projects. DRC has spearheaded the way in terms of capacity strengthening on LGBT rights with parliamentarians and Chad with uniformed personnel. The project has contributed to the review of gender based violence and the law in South Africa and to law review in Mozambique, Chad, Malawi and Ghana. The EAC has received support to review legal environments in all Partner States in preparation for alignment with the new EAC HIV Bill. SADC has begun the process of developing a strategy on HIV for key populations for adoption by Member States. The AUC has included progress reports on human rights and HIV in annual reports for AIDS Watch Africa. These are a few examples of many achievements which are highlighted, along with lessons learned, in the two Annual Reports (2013, 2014) which have been produced to date. These Annual reports also summarise results achieved against agreed targets. Please see Annexes 1 and 2 for 2013 and 2014 Annual reports which give more in-depth assessment of country level achievements in Phase I per the agreed targets.

1.7 Phase I Mid-term Evaluation

A mid-term evaluation (MTE) of the Project was conducted in 2014 by the Program of Global Health and Human Rights (GHHR) of the Institute of Global Health, University of Southern California. The key findings

from the MTE (that covered the time period January 2013 till June 2014) were submitted in March 2015 (see Annex 3 for MTE Report).

The “*Conclusions, Lessons Learned and Recommendations*” section of the MTE report highlighted the project’s “*effectiveness as measured by its quantitative indicators and also taking into account additional successes related to processes and smaller-scale outcomes.*” It also remarked on the “*positive spin offs, both at the regional and country level, that have occurred simply from the fact that this work is taking place represent a major contribution to date.*”^{vi} The report also highlighted that creating processes that had brought government and civil society to work together on legal environments “*with a distinct focus on women and girls, and LGBT populations, is in and of itself a major strengths of this project with enormous ripple effects.*”^{vii} The evaluators felt that the “*momentum generated through the project has the potential to improve the lived realities of key populations in a variety of ways, over and above explicit legal change, and as clear through the MTE, must not only be sustained but strengthened over time.*”^{viii}

Some of the key recommendations from the MTE for achieving project outcomes and for the Phase 2 of the Project included the following:

- Increased **systematic** attention to human rights principles, including inclusion, participation, equality, non-discrimination, and accountability, to further improve its relevance, effectiveness and sustainability.
- In-depth analysis of local cultural and religious beliefs as they may be relevant to project goals to be incorporated into initial in-country work to help identify aspects of culture that might support or impede project success.
- To carry out a political mapping, including a mapping of potential champions and roadblocks within the political arena, as well as a timeline for any forthcoming legal, policy and strategy reform, as an early step in each new project country.
- Continued attention to identifying and fostering key champions from relevant communities may be useful to promote relevance, effectiveness and sustainability.
- Continued attention to participation (particularly of traditionally marginalized populations) and non-discrimination, the project should continue its successful efforts to include a wide range of participants in LEAs and National Dialogues.
- Joint capacity building activities for CSOs and governments to improve participation in LEAs, National Dialogues and decision-making regarding national priorities.
- Increased systematic consideration of the value of the different types of data collected to inform future discussions of additional project indicators and guidance for countries on the type of narrative information to include.
- Systematic attention to each of the project’s target populations to help identify gaps in available data on each population, highlighting areas for possible future research.
- To analyse the common topical areas that emerged across the LEAs in order to support regional learning for strengthening laws and policies to better support LGBT populations and women and girls.
- To provide guidance to countries on the types of information to be reported as part of the project.

^{vi} GHHR (USC). “Mid-Term Evaluation Report” p35 (2014).

^{vii} *Ibid*

^{viii} *Ibid*

- To develop guidance tool on how to prioritise actions for follow-up, and to create mechanisms to promote accountability for implementation of activities arising from the LEAs and National Dialogues.
- To identify a range of shorter-term goals along the pathway to legal change as interim goals and markers of success to maintain momentum.

Many of these recommendations have been taken up during the final year of Phase I of the project and progress in these areas will be included in the 2015 Annual Report. Three important recommendations, will however, require additional funding – 1) scale up of collective capacity strengthening activities at country level for government and civil society; 2) systematic mapping of the political and cultural context as it affects the legal environment in countries; and 3) Identification of shorter-term goals along the pathway to legal change that can be used as markers of success.

2. Proposed Project Phase II, 2016-18

Following the submission of the 2014 Project Annual Report and discussion between Sida and UNDP it became clear that although significant progress had been made in Phase I of the project, the timeframe (3 years 2013-15) was inadequate to achieve lasting change in legal environments impacting on LGBT, women and girls in sub-Saharan Africa and that a second, 3 year phase of the Project (2016-18) was needed to expand the project to additional, new countries; build on the lessons learned; incorporate the three recommendations made by the MTE that require additional funding and take forward momentum built in countries in Phase I. Also, that although the flexibility offered to respond to requests from a large number of countries in Phase I had yielded positive results, Phase II of the project needs to dig deeper into and focus more on in-depth interventions in a sub-set of countries, so that lessons learned from these country experiences can be widely disseminated and replicated.

As a result of these considerations, SIDA requested UNDP to develop a new proposal for Phase II of the project.

Critically, Phase II will align with the new **Government of Sweden** “*Strategy for Sexual and Reproductive Health and Rights in sub-Saharan Africa*” 2015-2019, particularly in the area of strengthening democracy and gender equality, and greater respect for human rights where there is a focus on:

- Increased gender equality focusing on prevention of child marriages and sexual and gender-based violence, including female genital mutilation.
- Greater enjoyment of human rights for LGBT people

As mentioned in Section 1.3 above, the project in phase I was based on assisting countries to follow up the recommendations made by the Global Commission on HIV and the Law (GCHL). Although it is a commission on HIV, the GCHL was broad in its remit and encompassed a range of SRHR issues beyond HIV and as such aligns well with the new Sida strategy. Consequently, with a primary focus on the priority areas under the new Government of Sweden Strategy, phase II will continue to assist countries to follow up the recommendations made by the GCHL, and continue to support countries to strengthen legal environments for sexual and reproductive health. This will include but not be limited to supporting countries to : review overly broad provisions criminalising intentional transmission of HIV; Enact and enforce laws to prohibit domestic violence, rape including marital rape and sexual assault; Prohibit forced abortion, sterilisation and other forms of violence in health care; Enact and enforce laws to prohibit

harmful norms such as early marriage, widow inheritance, etc; Enact and enforce right of every child to comprehensive sexual health education; Enact and enforce laws to ensure young people have safe access to HIV and SRHR services; Reform laws to ensure age of consent for autonomous access to HIV and SRH services is equal to or lower than age of consent for sex; Repeal laws prohibiting sex work and use of civil / administrative offences to penalise sex work; Stop police harassment and mandatory HIV testing; Ensure anti-trafficking laws punish those using force, coercion; and enforce laws against child sexual abuse as opposed to consensual adult sex work.

The current LEA guidance includes a section on assessing Health Rights and Gender – questions include: is there a health or HIV law? Does it specifically recognize the vulnerability of women to HIV? Does it specifically provide for equal access to health care without discrimination for women? Etc. Depending on the country situation, LEAs completed in phase I did include more specific attention to important SRHR and law issues such as the criminalisation of abortion and contraceptive services. In Phase II, however, this guidance will be reviewed to incorporate these areas more explicitly.

Phase II will therefore include the same objectives and activities as Phase I, implemented with additional/new countries and with continuation of support the 3 RECs (EAC, ECOWAS and SADC) and the AUC. Phase II will in addition, operationalise recommendations from the MTE. Phase II will include more capacity strengthening activities at country level for government and civil society together, systematic mapping of the political and cultural context as it affects the legal environment in countries; and an operations research component which will identify shorter-term goals along the pathway to legal change that can be used as markers of success. **This is a key component in Phase II, where the project can once again lead thinking in this field. One of the barriers to donor funding and to large scale implementation of human rights programmes for LGBT and women and girls is the lack of understanding of, and tools available with which to monitor such programmes. The different indicators developed for Phase II of this project could therefore be of immense value for human rights programmes more broadly.** Phase II of the project will include 12 countries and will systematically research and document good practice, challenges and lessons learned. Given this, the planned for ‘end of project evaluation’ from Phase I will be conducted at the end of the Phase II of the project.

Countries and activities prioritised in Phase II of this Project will also complement a proposed Global Fund supported regional project to develop enabling legal environments for key populations in Africa. This potential funding opportunity which is currently still under negotiation, has been leveraged as a direct result of the Sida supported Phase I of this project. UNDP is the proposed Principal Recipient of this new Global Fund project which is designed to work in 10 countries^{ix} to assess and strengthen legal environments using strategies, activities and lessons learned from, and directly leveraging experience gained, in Phase I of this project. The proposed Global Fund project will complement the Phase II of this project since it is focused exclusively on key populations and removing legal barriers to their access for HIV/TB services.

^{ix} ARASA-ENDA Regional GF proposed project focuses on: 10 countries in Africa (Botswana, Cote D’Ivoire, Kenya, Malawi, Nigeria, Senegal, Seychelles, Tanzania, Uganda and Zambia). The project will work at country level in 7 of the project countries (Botswana, Cote D’Ivoire, Kenya, Malawi, Nigeria, Senegal and Seychelles) to assess, strengthen and monitor legal and policy environments for HIV. At regional level, the project will provide intensive capacity strengthening opportunities for key stakeholders and decision makers from all 10 countries.

Phase II will also be aligned with the **Government of Norway** directives on “Promoting equal rights and non-discrimination of LGBT people (which) is a priority for Norway.” These directives emphasise the importance of extending human rights efforts to issues relating to LGBT people, and advice Norwegian Embassies to “investigate the legislative framework and political and social situation for LGBT people locally,” and “maintain contact with organisations that represent them and consider financial support.” In the context of HIV and AIDS, the directive advises Embassies to “encourage access to equal treatment for LGBT people” and suggest that in the event of arrests or abuse of LGBT people, embassies should consider responses to “include following court cases, protesting to the authorities, or expressing support to the persons arrested.” The directives finally caution that such “response should also be adjusted in the light of what will most benefit the target group, and LGBT organisations’ own assessment of the situation”.³³

Phase II will critically align directly with, and achieve results under **UNDP’s Strategic Plan for 2014-2017**. With a vision “To help countries achieve the simultaneous eradication of poverty and significant reduction of inequalities and exclusion” and targeting 3 “big ideas about development” that aim to (a) Transform economies to become sustainable (b) Enable democracy to deliver development dividends, and (c) Manage) risks to become resilient”.³⁴

The Strategic Plan calls for “reducing discrimination and violence against women, girls and minorities [including people affected by HIV and AIDS (PLHIV)] and encouraging their full participation in governance processes” and advocates for “Strengthening of local governance...to secure more equitable access to services for the poor and other excluded groups such as PLHIV.” It also advocates for “reinforcing the rule of law and citizen security based on reform of legal systems to deal with discrimination, for example, women’s rights to legal identity, ownership of property, inheritance and equal pay for equal effort, and the rights of PLHIV”.³⁵ The Strategic Plan embeds the response to pandemic diseases within the broader UNDP Focus Area of Governance Strengthening and Innovation.

Phase II will also align with **UNAIDS goals and strategies**. Within the UNAIDS Division of Labour (DOL), UNDP is the lead agency on human rights and law and co-leads on women and girls and key populations. UNDP co-convenes the UNAIDS Reference Group on Human Rights. UNDP also participates in the Global Fund Reference Group on Human Rights, along with UNAIDS and Stop TB. The UNAIDS Unified Budget, Results and Accountability Framework (UBRAF) was developed to translate the UNAIDS Strategy Getting to Zero 2011 to 2015 into action. The new UNAIDS Draft Strategy 2016-2021 (“Getting to Zero: How will we fast track the AIDS Response?”) is still going through consultations before being finalised. However the Strategy Consultation Paper speaks about ending discrimination and says: “Ending stigma and discrimination are both a condition and a goal in our efforts in ending the AIDS epidemic by 2030. Effective measures to end stigma, discrimination and other human rights violations against people living with HIV, key populations and other affected populations through policy and programmatic actions must focus on: 1) Enabling legal and policy environments, in line with the recommendations of the Global Commission on HIV and the Law, by removing punitive laws, and putting in place processes that promote equal participation and input by all, including men, women, girls, boys and transgender people, in formulation of such laws and policies; 2) Promotion of systemic measures to ensure equality and eliminate stigma and discrimination, providing effective and transparent legal protection and mechanisms that promote access to justice and appropriate redress for rights violations; 3) Agency, organising and giving a voice to people living with HIV, key populations and other affected populations, that support the ability of individuals to know, assert and claim their rights and meaningfully engage in policy development in order to reduce and

overcome HIV vulnerabilities and barriers to accessing HIV services, as well as to seek and obtain redress for human rights violations.

2.1 Phase II Objectives and Results

Sida support for the Phase II of the Project is requested for three years, from 2016 to 2018 and will be included in overall UNDP follow-up to the Global Commission on HIV and the Law. Phase II will build upon the achievements and successes of Phase I of the Project in 12 countries to strengthen national and regional legal environments to support the enjoyment of human rights of LGBT people and women and girls in sub-Saharan Africa. Countries included are: Angola, Burkina Faso, Cameroon, Chad, DRC, Gabon, Ghana, Namibia, Lesotho, Mozambique, South Africa and Swaziland. Brief details about the situation of HIV and the law, punitive statutes and the status of their review/reform in the 12 countries selected for Phase II are provided in Annex 8. A Logical Framework for the Phase II of the project is also provided in Section 5 below.

The other 7 countries which have been part of Phase I of this project will continue to be supported, as required to strengthen legal environments for key populations, by UNDP.

The Development Objective of Phase II will be to strengthen sexual and reproductive health and rights in Sub-Saharan Africa.

The Overall Programme Objective of Phase II will be to strengthen national and regional legal environments relating to HIV and sexual and reproductive health and rights to support the enjoyment of human rights of LGBT people and women and girls in Sub-Saharan Africa.

Specific Objectives:

1. Strengthening the capacity of national governments to put in place legal environments that respect the rights of LGBT people and women and girls
2. Strengthening the capacity of regional and national civil society organisations including community-based groups to claim rights and advocate for strengthened national legal environments
3. Strengthening the capacity and leadership of regional economic communities to facilitate Member States to put in place legal environments that respect the rights of LGBT people and women and girls
4. Strengthening the understanding of appropriate indicators and monitoring and evaluation processes that help promote accountability for implementation of human rights enabling activities that arise from legal assessments

Expected Results envisaged to achieve the specific objectives over the 3 year timeframe are:

Outcome Level 1: Law, policy or strategy review, implementation or enforcement of laws which positively impact on women and girls strengthened

Outcome Level 2: Law, policy or strategy review, implementation or enforcement of laws which positively impact on LGBT affected by HIV strengthened

Output Level 1: Gaps in adherence to international and regional human rights standards related to HIV successfully identified.

Output Level 2: Accountability established for following up a nationally agreed prioritised plan of action to strengthen legal environments for HIV

Output Level 3: Capacity to apply human rights principles in HIV-related work strengthened through collective capacity building initiatives for key stakeholders (police, NAC, judiciary, Ministry of Justice, parliamentarians, National Human Rights Institutions, LGBT groups etc.)

Output Level 4: Strengthened understanding of the links between human rights and HIV in 3 RECs

Output Level 5: Strengthened understanding and application of human rights and HIV related indicators and milestones

2.2 Key Activities

Project activities will build on approved National AIDS Strategies and their specific components and action plans addressing HIV in relation to human rights, stigma, discrimination, sexual violence and the law. Where countries are developing new national strategic plans or updating other relevant policy, the project will provide relevant technical support. Phase II will also be able to assist countries to operationalise and monitor human rights and key populations components of national Global Fund projects.

UNAIDS recommends that national AIDS responses include at least the following initiatives tailored to the specific needs of affected populations and appropriately tailored to the national and local epidemic: (1) stigma and discrimination reduction interventions, (2) HIV-related legal services, (3) law reform, (4) legal/human rights literacy, (5) HIV and human rights sensitization of police, (6) HIV and human rights training of health care workers, and (7) interventions addressing harmful gender norms and violence against women.

The Project will, therefore, continue to support **Legal Environment Assessments (LEAs)**, including participatory multi-stakeholder national dialogues on HIV and the law during the process to generate support for follow-up on law reform and work with key constituencies on strengthening access to justice and law enforcement. LEA processes will be complemented by systematic **mapping of the political and cultural context** as it affects the legal environment and the rights of PLHIV, women and girls and LGBT persons, within each country. They will be followed up with close support for the **development as well as the implementation and monitoring of National Action Plans**, based on identified gaps and challenges and which include commitments towards accountability. Furthermore, Phase II will seek to create increased opportunities for **collective dialogue and capacity building between civil society and government at country level** as well as to strengthen the capacity of regional and national CSOs and community-based organisations to advocate for evidence informed and human rights-based legal environments. In addition, the project will continue to support the **AUC to support Member States to strengthen legal environments and 3 RECs (EAC, ECOWAS and SADC)**, to develop regional strategies on HIV for key populations and to ensure shared responsibility and long term sustainability of efforts. The project will develop additional **regional guidance** and prioritise the identification of good practice and dissemination of lessons learned. Phase II will also seek to support **research on health, HIV and human rights indicators**, based on the outcomes and impact of the project goals at country and regional level with a particular focus on learning from shorter-term achievements in-country and at regional level which are important markers towards longer term law and policy review and reform. A detailed description of these key activities is provided below.

Actual law reform can be expected in a small number of countries – particularly in relation to addressing criminalisation of HIV transmission and domestic and sexual violence. However, all countries will also be supported to identify shorter-term goals along the road to law reform in line with the Mid-Term Evaluation findings – these may include, for example, changes to law enforcement practices or changes to policy and strategy to include programming for key populations. Other activities may include reduction of stigma and discrimination, strengthening civil society capacity for advocacy and legal support, improving legal literacy, capacitating the judiciary, strengthening capacity of lawyers, paralegals and civil society for strategic litigation, training and sensitising police and service providers, and strengthening capacity of national and regional human rights institutions and mechanisms. In particular, support for collective capacity building at country level with civil society and government, to build on the collaborative partnerships created during the LEA process, will be prioritised at country level. Whilst this Project will support activities agreed during the LEA process which directly impact on LGBT people and women and girls, UNDP will also help countries source funding for activities that impact other areas, as agreed as priorities during the LEA process.

It should be noted that whilst UNDP will manage and lead this programme and provide policy advisory, technical support and capacity development services to government, any decisions regarding policy or law reform will be made by national governments. Similarly, whilst UNDP will provide capacity development and technical support to civil society, it will be the role of civil society to advocate for changes in the legal environment related to HIV and to hold government accountable for human rights commitments. A human rights-based approach will be applied throughout the programme (see Box 1. below).

Box 1: A Human Rights Based Approach in Principle & in Practice

Principles of inclusion, participation, accountability, non-discrimination and equality are at the core of the programme goal, objectives and implementation strategy. Furthermore, these principles are practically applied throughout the implementation strategy. For example:

- (1) The national LEA employs a human rights analysis which evaluates national legal frameworks and their implementation against international human rights standards, including the right to be free from discrimination, the right to equality before the law and equal protection from the law amongst others. It then examines a country's protection of rights in terms of the specific impact this has on HIV and AIDS. Furthermore, principles of participation and inclusion underpin the LEA methodology so that the perspectives of various populations, such as women, girls and LGBT people inform the substance of the LEA.
- (2) The National Dialogues and meetings are designed to be an inclusive and participatory process whereby affected communities and civil society, including women, girls, LGBT people, can engage in frank and constructive dialogue with those who write, shape and enforce laws about the relationship between law, human rights, HIV and sexual and reproductive health and the impact of these on their lives.
- (3) People's empowerment lies in some measure in their ability to hold institutions accountable, thus the programme's investment in strengthening access to justice alongside strengthening the leadership and capacity of regional and national human rights and legal actors is an important way of reinforcing accountability.
- (4) Actions to strengthen the legal and regulatory framework will include actions that focus on empowering rights-holders, such as women, girls and LGBT populations, to claim their rights as well as building the capacity of duty-bearers (such as law-makers, the judiciary and law enforcement officials) to implement rights.

Activity 1: Legal Environment Assessments (LEA) and National Action Planning

One of the first steps towards addressing issues of HIV and the law is a comprehensive assessment of the national legal environment (laws and their implementation and enforcement) using a human rights analysis as it relates to HIV. For instance, the legal assessment will examine the extent to which women's rights to equality and protection from violence and harm are protected within a country's personal laws, criminal laws, workplace laws and health laws and policies as well as the extent to which they are able to realize rights. LEAs will include a comprehensive literature review, including any relevant regional and national legal assessments on salient human rights issues such as reviews of the country's justice system or reviews of gender-based violence (GBV). LEAs will also build on a range of existing regional and national research, legal and environment assessments and reports such as Stigma Index surveys conducted in Eastern and Southern Africa (ESA) countries on HIV-related stigma and discrimination, work done by SADC and HEARD to review gender law and policy and work done by Open Society Institute (OSI) to review access to justice in Southern Africa, amongst others.

In addition to being in line with international human rights obligations and the commitments Member States made in the UN 2011 Political Declaration on HIV/AIDS, the LEA helps by reviewing a country's current laws, regulations and policy guidelines utilising an inclusive, participatory, transparent, human rights-based approach. It conducts a thorough consequence analysis to determine the impact of current laws on key populations and other vulnerable groups and is guided by important international guidance such as the Global Commission on HIV and the Law's report *Rights, Risk and Health* and the UNAIDS & OHCHR *International Guidelines on HIV/AIDS and Human Rights (2006)*, as well as key regional HIV laws such as the East African Community (EAC) *HIV and AIDS Prevention and Management Bill 2012*, and the Southern African Development Community Parliamentary Forum (SADC PF) *Model Law on HIV & AIDS in Southern Africa 2008*.

The assessment process begins with a full stakeholder analysis followed by identification of key legal and human rights issues that hinder or hamper access to health and social services for all, including those at higher risk of HIV exposure or most vulnerable to the impact of HIV. To enhance the quality of LEAs, it is important to promote more active and inclusive debate and ensure that all marginalised populations affected by HIV can articulate their issues safely and effectively. The assessment process will, where appropriate, include a national dialogue on HIV and the law. National Dialogues may also act as a platform to share and validate the LEA findings and to prioritise key areas for advocacy and action.³⁶

The LEA is not an end in itself, it is an essential step that brings issues into open spaces for dialogue and discussion and culminates with movement towards reform and/or repeal of punitive and discriminatory laws, regulations, policies and practices. In addition, the process helps to identify priority capacity building needs on issues of HIV and law in national institutions, such as National Human Rights bodies, Law Commissions and in civil society, including community groups. The creation of 'safe spaces' for ongoing dialogue on key issues of HIV, law and human rights has been seen to be one of the major achievements of the project, to date.

Conducting LEAs during Phase I of the project in 8 countries (Cameroon, DRC, Lesotho, Namibia, Nigeria, Seychelles, Swaziland and Tanzania) has provided a wealth of information and lessons on how best to conduct rights based LEAs, the opportunities and challenges within the process and their role in galvanising further action from government and civil society. In order to support countries in conducting

LEAs, UNDP will share and build on this experience. A key lesson is that it is critical to implement rights based LEA processes in an inclusive and transparent manner and in such a way as to ensure the full and safe participation of women and girls and LGBT people.

The Mid-Term Evaluation of Phase 1 of the project emphasised the need for ongoing support to countries to ensure the development of effective Action Plans and to increase accountability for the implementation, monitoring and evaluation of sustained action at country level. As a result, Phase II of the Project will increase the focus on Action Planning for rights-based responses in the context of HIV, as a follow up to the LEA and political and cultural mapping exercises. Countries will receive capacity building and more focussed support for advocacy and action planning that builds on the findings of the LEA for law review and reform, access to justice and law enforcement and responds to the political and cultural context in-country. Effective planning should be based on shared commitment and shared responsibilities amongst key partners, involve a range of stakeholders from various sectors, provide for budgets for identified actions and ensure accountability and monitoring mechanisms are in place. Countries will be supported, where possible, to integrate action plans into national processes such as the development or review of a country's NSP or Investment Framework and/or the development of a GF NFM process, from concept note through to grant-making stage.

Activity 2: Mapping of the Political and Cultural Context

The LEA process results in a comprehensive report on laws, policies, law enforcement and access to justice but do not examine, in any significant manner, the political and cultural context within each country. Project reports and the Mid-Term Evaluation of the project have noted how both political and cultural contexts significantly affect the potential for strengthening legal environments for LGBT populations, women and girls for HIV. Sensitivities around the criminalisation of same sex relationships and sex work or cultural norms around gender issues, for instance, may negatively impact on advocacy efforts to protect the rights of LGBT, women and girls. Yet the experiences of Phase I of the project have shown how identifying and working with selected champions, framing key populations' rights within cross-cutting or broader human rights goals or using specific strategies may help to increase support for advocacy and action to promote rights-based responses.

A better understanding of the political and cultural context within each country is critical to supplement the LEA findings and support effective Advocacy and Action Plans for law review and reform, capacity building and strengthened access to justice and law enforcement, based on these findings. The project will support a separate mapping exercise, alongside the LEA process, to provide a strengthened understanding of potential champions in the political and cultural area and advocacy strategies most likely to succeed in each country.

Activity 3: Addressing Gaps/Legal Environment weaknesses that are identified in LEAs

LEA follow-up activities will vary according to the situation in each of the selected countries, as identified by the assessments, dialogues and mapping exercises. Some follow-up activities prioritised by countries will attract their own funding. This programme will, therefore, provide necessary technical support in all cases, but only provide funding for activities where there is no other source. Activities that specifically build the capacity of civil society and community-based organisations and those that foster collective

capacity building and dialogue between civil society and government on women, girls, LGBT and HIV issues, will be prioritised for increased support during Phase II of the project.

As mentioned above, the assessment process does a consequence analysis of the legal and policy environment as a whole, in terms of its alignment with international, regional and national human rights commitments and the impact of discriminatory and non-protective laws as well as gaps and challenges within laws and their implementation and enforcement, on the response to HIV particularly for populations such as women, girls and LGBT people. It identifies key legal and human rights issues that hinder or hamper access to health and social services. The political and cultural mapping exercise will further support the identification of potential champions in the political and cultural area and inform strategic approaches to capacity strengthening and law review / reform. Interventions are then prioritised and an action plan developed for short-, medium- or long-term action on strengthening evidence and rights based legal environments. Movement is towards reform and/or repeal of punitive and discriminatory laws, regulations, policies and practices. In addition, the process helps to identify advocacy opportunities and priority capacity building needs on issues of HIV and law in national institutions, such as National Human Rights bodies, Law Commissions and in civil society.

For example, LEAs can help to highlight inconsistencies between civil and customary law and how these may reinforce gender inequality and harmful gender norms such as early marriage; on-going discriminatory and punitive practices that impact on women's sexual and reproductive health rights such as coerced sterilisation, forced abortion and broad laws criminalising HIV exposure or transmission, as well as gender-based violence including sexual violence. This can also point to the need to strengthen collaboration between formal justice and traditional/community justice sectors. LEAs can also bring to the fore the inadequate protection of the equality rights of sexual minorities, issues of criminalisation of same sex relations and justice systems that fail to prevent violence and discrimination against LGBT people. In addition, gaps in the law, in policy and in capacity of the justice system which can be addressed in follow-up activities will be made clear. Follow-up activities are, therefore, likely to include financial and technical support for activities aimed at strengthening laws and policies as well as access to justice and law enforcement.

LEA/Dialogue follow-up activities target law, policy and its implementation and enforcement. They may include, but not be restricted to the list shown below:

- 1) Reforming/repealing laws – including supporting constitutional review where relevant;
- 2) Activities to reduce stigma and discrimination;
- 3) Training and sensitising on HIV, law and human rights issues for LGBT and most at risk populations;
- 4) Sensitisation in HIV and human rights issues for service providers, parliamentarians, police and prison services, the judiciary and the magistracy;
- 5) Capacity building of Human Rights Commissions and other national human rights institutions;
- 6) Activities aimed at reducing gender inequality, harmful gender norms and gender-based violence;
- 7) Specific activities to foster collective dialogue and capacity building on HIV, law and human rights issues between civil society and government
- 8) Specific activities to strengthen civil society capacity for advocacy and legal support services;

9) Activities to strengthen capacity of lawyers, paralegals and civil society for strategic litigation.

Terms of reference indicating key partners, roles and responsibilities, objectives, and expected outputs and results will be developed and agreed for follow-up activities in each country. An institutional home and existing mechanisms will be identified, so that activities can be located in existing structures. Care will be taken to strengthen national capacity to carry out follow-up activities and develop national ownership and shared responsibilities rather than having the UN implement activities 'on behalf' of countries. Consultants will be used as appropriate, managed by designated human rights or HIV/Gender staff in UNDP Country Offices with technical backstopping provided by the Regional HIV Team (see section 3.7).

In all countries selected, opportunities will be identified and taken to enhance human rights components of Global Fund projects.

Activity 4: Regional Guidance

In phase I of the project, a number of guidance documents were produced and disseminated, including guidance on:

- Conducting National LEAs using human rights analysis
- Conducting National Dialogues on HIV and the Law using rights based approaches, including developing advocacy and action plans for law reform and strengthening access to justice
- Developing and implementing comprehensive human rights programmes within Global Fund HIV and TB projects
- The Compendium of Judgments, HIV, Human Rights and the Law.
- Guidance for prioritising actions for follow-up, and on ways of creating mechanisms to promote accountability for implementation of activities (2015, under development).
- An online repository of judgements and rulings on litigation pertaining to HIV and human rights that brings together African and global litigation for easy access by judges and their colleagues.

In Phase II, additional guidance will be developed, including to strengthen understanding of indicators and monitoring and evaluation processes for human rights projects. Guidance will also be developed to help promote accountability for implementation of human rights enabling activities that arise from legal assessments recommendations. Support will be provided to the AUC who have requested the project for assistance to develop a 'Good Practice Guidance' on HIV and human rights for Africa. In addition, a series of evidence briefs, lessons learned/case study documentation will be developed, translated and disseminated during the project period. It is envisaged that during Phase II guidance documents will be translated into not only French but also into Portuguese.

In addition to holding annual stakeholder meetings which will be used to disseminate guidance, these products will also be shared by UNDP with countries across the globe via its regional networks and thematic communities of practice. Both hard and soft copies of guidance documents will be disseminated from UNDP Country Offices across Africa and other regions and be available on shared internet sites such as Teamworks, the Global Commission, and Regional Centre websites. UNDP staff will share these documents with their government and civil society partners in each country and with appropriate Sida partners. Through the UNAIDS Country Co-ordinator mechanism, guidance will also reach all relevant

country-based UN agencies and Joint Teams on AIDS. As mentioned above, UNDP has a database of some 300 government and civil society contacts in sub-Saharan Africa who were involved in some way in the Africa Dialogue on HIV and the Law. Guidance and other documents will be disseminated to this group who will be encouraged to pass them on to their partners. Similarly, guidance and other documents will be available on social networking sites (the Global Commission on HIV and the Law is on Facebook™ and Twitter™) and disseminated via HIV/AIDS mailing groups such as AfAIDS.

Activity 5: Work with AUC and RECs

UNDP considers the close work and strengthened collaborative relationships developed with the AUC and key RECs and their development partners to be a major achievement during Phase 1 of the project, contributing to the scale, sustainability and ongoing accountability for work on HIV and the law in the medium term. UNDP will continue to complement on-going support to the AUC and RECs with in-depth technical and policy advisory support, building the capacity of HIV, gender and other units as appropriate to work with Member States on issues concerning rights of LGBT and women and girls. The programme will also build on work already underway with RECs to ensure that Member States are reporting annually to RECs on HIV and human rights, in particular on stigma and discrimination affecting LGBT people and on issues affecting the rights of women and girls.

African Union Commission (AUC)

In 2012, the African Union adopted a Roadmap for Shared Responsibility and Global Solidarity for AIDS, TB and Malaria.³⁷ The Roadmap was reviewed in 2015 and is based on three pillars, one of which is Enhanced Leadership and Governance, in terms of which, priority actions include:

- Countries use strategic investment approaches, including in *social and legal enablers*, for effective scale-up of a set of basic programmes; and
- Invest in programmes that support people and communities to prevent HIV, co infection HIV/TB and Malaria, *to know and claim their rights* and to enable effective participation in planning and evaluating AIDS, TB and malaria programmes.

Building on the already established partnership with the Department of Social Affairs who are leading implementation of the new Roadmap, in 2013 to 2015 UNDP worked closely with the AUC to promote accountability for the rights of LGBT people and Women and Girls in the roll out of the Roadmap in selected countries. In July 2013, the project supported the AUC to convene a side event to the Abuja +12 Special Summit for AU Heads of State, on “Strengthening Legal Environments for HIV”, culminating in a number of recommendations on human rights, HIV and Law which were included in the Final Declaration ratified by AU Heads of State. In May 2014, the project supported the Department of Social Affairs and AIDS Watch Africa in the development of a summary report on progress towards achieving law and human rights goals within the AU Roadmap, for presentation to the AWA Consultative Experts’ Committee Meeting in Mauritania. The meeting adopted the report in the context of HIV, key populations and human rights and recommended the “[c]ontinued prioritisation of rights based responses to HIV, TB and malaria in the law, in access to justice and in law enforcement, including the prioritisation of the needs of people living with HIV and key populations as well as for people suffering from TB and malaria in the post-2015 development agenda.”

During the period 2016 to 2018, UNDP aims to continue to promote the inclusion of HIV and human rights and LGBT/women and girls issues into AWA and other key AU processes.

Southern African Development Community (SADC)

UNDP has been a strong technical partner of the SADC Secretariat for some time and has co-funded a number of activities in SADC's strategy. The period 2013 to 2015 has seen an increased focus on key populations in the context of HIV, in SADC's regional work with Member States. Significantly, a model Regional HIV Framework for Key Populations was developed by the Africa Key Population Experts Group, SADC and the EAC, based on which SADC has drafted its own strategy for adoption by Member States and furthermore integrated outcomes and outputs into the second phase of the SADC Cross Border Global Fund grant. In 2014, the project supported the writing and finalisation of SADC's status report for AIDS Watch Africa in August. The report highlighted progress towards protecting human rights in the context of HIV amongst Member States and recommended increased prioritisation of protecting the rights of women, girls and LGBT populations, amongst other things. This is an important regional example of shorter-term goals along the road to legal change, which can significantly impact on accountability towards promoting protective policies, strategies and ultimately law review and reform amongst Member States.

During 2016 to 2018, the project will continue to support SADC to promote accountability to these two rights-based frameworks amongst Member States. Support will be provided to assist Member States to develop action plans and to promote accountability and track progress for alignment with both the SADC PF Model Law and when finalised, the SADC Regional HIV Framework for Key Populations.

East African Community (EAC)

UNDP is a technical partner for the EAC HIV Unit for work with key populations and for advocacy for the assent and subsequent implementation of the new EAC HIV Bill. UNDP supports EAC's new Strategic Plan 2015-2020 in the following areas:

- 1. To develop a regional strategy for addressing the needs and promoting the rights of key populations on regional and national level for the attainment of fulfilled lives including the right to comprehensive HIV services and gainful employment;*
- 2. To support and promote the development/harmonization of laws, regulations, policies and national and regional programmes that address obstacles to effective HIV prevention, treatment, care and support for key populations, mobile populations and other vulnerable subpopulations;*
- 3. To conduct regional and national advocacy/sensitization meetings and media campaigns for the HIV & AIDS Bill and the EAC HIV & AIDS legal reform Action plan;*

During 2013 to 2015 the EAC was supported to promote rights-based frameworks for HIV amongst Partner States in various ways. The project provided technical support to the EAC for a comprehensive analysis of the EAC HIV and AIDS laws, bills, policies and strategies for the EAC Partner States; the report was validated in 2014 and presented at the 10th Ordinary Meeting of the EAC Sectoral Council of Ministers of Health in Arusha in October of that year. The EAC was further supported to develop a model Regional HIV Framework for Key Populations with the Africa Key Population Experts group and SADC.

During 2016 to 2018 the project will continue with focussed support to the EAC in promoting accountability to these two rights-based frameworks amongst Partner States. Support will be provided to conduct national-level workshops amongst Partner States to develop action plans and to promote accountability and track progress for alignment with both the EAC HIV law and the Model Framework.

Economic Community of West African States (ECOWAS)

ECOWAS has recently developed a regional plan to support member countries' efforts to combat stigma and discrimination towards people with HIV and sexual minorities. Work on strengthening the legal environment for LGBT people and for women and girls in selected ECOWAS countries will be supported through this programme and lessons learned used as a catalyst for change in other ECOWAS Member States. The following notable activities are included in the 2012-2016 ECOWAS regional strategic plan:

1. *Mapping of laws and enforcement of existing legal texts on HIV in ECOWAS Member States;*
2. *Developing a minimum legal framework on human rights and HIV AIDS;*
3. *Organizing a session with the participation of the Health Commission of the Parliament and the Chairpersons of the Health Commissions of National Parliaments for discussion and development of the final version of the minimum legal framework to be submitted to the ECOWAS Parliament;*
4. *Presentation of the situation on the existence and enforcement of legal texts on HIV in ECOWAS Member States and a proposal of a minimum legal framework to the ECOWAS Parliament;*

During 2013 to 2015, UNDP has supported ECOWAS towards the finalisation of a Minimum Legal Framework on HIV and Human Rights as well as an overview of the extent to which laws and policies in the 15 Member States are in alignment with the proposed Minimum Legal Framework. During 2016 to 2018 the project will continue to work with ECOWAS to provide continued support for the adoption of the Minimum Legal Framework by the ECOWAS Parliament and the promotion of the Framework amongst Member States, including to be used as a reference standard in LEAs being conducted in Member States.

Activity 6: In-depth Country Case Studies

Phase II will see increased attention to operations research and evaluation. To follow up the midterm evaluation mentioned in section 1.5, an endline evaluation will be completed in 2018. This is described in Section 4 below. In addition, a series of 4 in-depth country case studies will be carried out in Phase II, to monitor individual project interventions, as well as expand the analysis to bring attention to the synergies among interventions. For example, building capacity of or sensitising key stakeholders to issues of human rights and LGBT involves changing the knowledge, attitudes and practices of, for example, members of the judiciary, law enforcement and parliamentarians. This can be further broken down to capture additional issues such as the intensity, frequency and quality of the training; the different cadres and gender breakdown of people being trained; follow-up activities carried out by training participants beyond those listed in the document such as additional meetings held to discuss relevant rights issues, and attention to participation, discrimination and accountability in their work practices. Further along the causal pathway this should lead to better interactions between duty bearers and rights holders, which will also be assessed. Ultimately all of the project's interventions are designed to lead to an improved legal and policy environment but it is essential that appropriate milestones towards this desired impact are also measured.

In addition to elaborating these pathways of change for each individual intervention so as to identify milestones along the way to achieving the desired impact, the case studies will also seek to capture the synergies between different interventions as they ultimately contribute to the same outcomes. It is critical that the wide range of interventions included in this project be not only independently implemented and evaluated but that their complementarities and synergies be fully understood so as to maximise the effectiveness and sustainability of the project as a whole. For example, it will be useful to track how findings from legal environment assessments and capacity development activities feed into strategy and policy change. Countries will be selected based on different political and cultural contexts as well as on the type and number of activities supported by the project and the results reported.

Whilst conducting the case studies, attention will be given both to the underlying factors that affect legal and policy change and to what is needed once law or policies are on the books to implement it and make it work for people on the ground. Both areas potentially shed light on activities to be supported going forward, and lend themselves to operational research. With respect to underlying factors, issues to be considered would include the existence of related laws, policies and public health activities both good and bad as these impact the potential for change, as well as the attitudes and histories of people and processes involved in making legal and policy change happen. In the case of implementation, issues to be considered would include methods of dissemination, budgets and training, as well as media, public awareness, knowledge within LGBT populations and amongst women and girls, and efforts by others to document the use and impact of relevant laws or policies. In both cases, the ability to compare across countries will bring to light the generalizability of findings.

3. Management Arrangements

The programme will be managed as a stand-alone project under UNDP rules and regulations, linked to the global programme of follow-up to the Global Commission on HIV and the Law. The UNDP Regional HIV Team for Eastern Europe and Central Asia is already successfully supporting a multi-country Global Commission follow-up initiative supported by the European Commission using the same management arrangements. Similar work in the Asia Pacific funded by USAID titled “Being LGBT in Asia”,³⁸ is also already underway. The Phase 2 of this Project will complement a Global Fund supported regional project covering 10 African countries^x that aims to “Strengthen Legal and Policy Environments for Key Population Access to HIV and TB Services in Africa,” for which UNDP Regional Centre is the Principal Recipient.

It is expected that regional and global linkages will enable greater South-South sharing and learning between countries regions and the Phase 2 of the Project will continue to contribute to have broader impacts that were noted during the Phase 1 of the Project.

UNDP procurement, audit and other internal control regulations will apply as usual to the proposed programme under the standard cost sharing agreement between UNDP and Sida.

3.1 Management Structure

A Project Management Committee (PMC), established for project oversight during the first phase of this project (2013-2015) comprises the Africa HIV, Health and Development Team Leader, the Director of the

^x These countries are: Botswana, Cote d’Ivoire, Kenya, Malawi, Nigeria, Senegal, Seychelles, Tanzania, Uganda and Zambia. Of these countries, Malawi, Nigeria, Seychelles and Tanzania have completed their legal assessments under Sida Project Phase 1, and have initiated/will initiate action planning on law and policy reform during 2015.

UNDP HIV, Health and Development Group, the Deputy Director of the Africa Regional Bureau, two UNDP Resident Representatives from Botswana and Niger, Regional Directors of UNAIDS, UNFPA and UN Women, two representatives from civil society (AMShE and MANERELA+), and the Head of Division HIV/AIDS from the Department of Social Affairs at the AUC. During this Phase II of the Project, the Project Management Committee will continue to make strategic management decisions for the project as well as provide guidance to the Project Manager. The Project Management Committee will meet once a year to approve annual work plans, review progress in the implementation of the project, and provide guidance for the specifications of the outputs and programme activities. In addition to the annual meeting, the Project Management Committee may agree to meet at other times via tele-conferencing/video-conferencing if required.

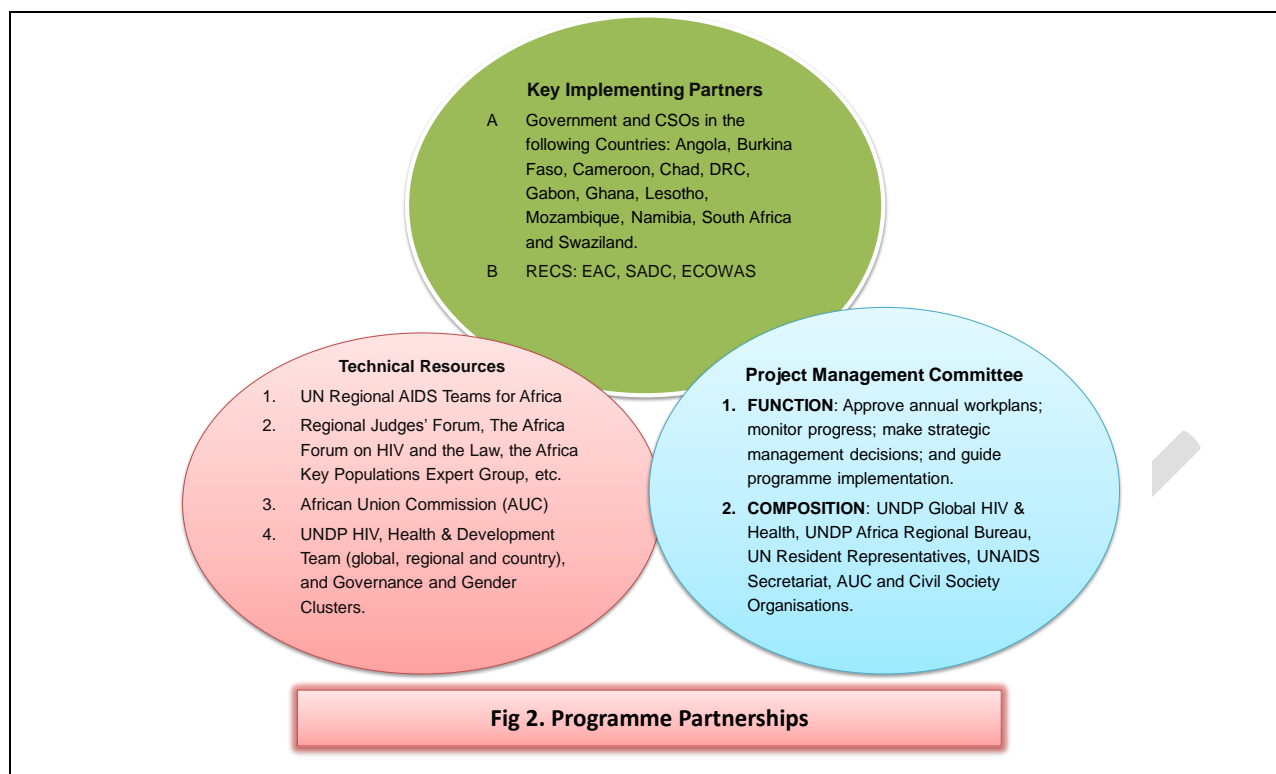
Implementation and co-ordination of the programme will be carried out directly by UNDP with support from the Project Management Committee. The day to day management of the project will be decentralised to the Senior Policy Advisor HIV and Human Rights based in Addis Ababa who will take the role of Project Manager. The Project Manager will be accountable for adherence to UNDP policies and procedures and is responsible for:

- Managing the overall conduct of the project;
- Implementing activities by mobilizing goods and services;
- Checking on progress and watching for plan deviations;
- Ensuring that changes are controlled and problems addressed;
- Monitoring progress and risks;
- Reporting on progress including measures to address challenges and opportunities.

An annual review will be held with Sida to assess progress and review plans for the following year's implementation.

Activities will involve close collaboration across regional, country and global levels, and consultation with the UNDP Governance and Gender Teams. Figure 2 (below) shows the programme partners.

Figure 2. Programme partners



3.2 The Project Team

Four consultant attorneys with extensive experience of HIV and the law, human rights and strategic litigation, and two consultants with extensive experience on programming for key populations and LGBT groups will support the HIV and Law work on a regular basis and the Team has both English and French speaking staff members and consultants. The following staff time will be allocated exclusively to the programme:

- Director HIV, Health & Development Group (Global) (P6) – 20% time
- Regional HHD Team Leader (Africa) (P6) – 30% time
- Senior Policy Advisor Human Rights and Key Populations (Africa) (P5) – 100%
- Policy Advisor Gender, SRH and Human Rights (Africa) (P4) – 100% time
- Policy Advisor Key Populations (Africa) (P4) – 30%
- Programme Associate (Africa) (G6) – 100% time

The Africa Region HIV, Health & Development work is currently led from Addis Ababa. The project team and the relationships with UNDP Country Offices and partners is shown in the Organogram in Annex 7.

3.3 UNDP as a Co-Sponsor of UNAIDS

UNDP is one of the eleven co-sponsors of UNAIDS and the UNDP Regional HHD Team is represented on the Regional UN Joint Teams on AIDS for both East and Southern Africa and for West and Central Africa.

These forums are convened by the UNAIDS Secretariat which is responsible for coordinating the work of the co-sponsors.

UNDP works closely with other co-sponsors on activities agreed in annual joint UN regional work plans and is accountable for this joint planning to the Regional Directors Team. UNDP is the convening agency for UN work on HIV and the Law and co-convenor with UNFPA and UN Women for work on gender and with men who have sex with men, transgender people and sex workers. Consequently, all follow-up work to the Global Commission on HIV and the Law is planned and implemented jointly by a team led by UNDP which includes the World Bank, UNFPA, UNHCR, UNODC, UNICEF, ILO, UNOHCHR, UNESCO, UN Women, the UNAIDS Secretariat and IOM. This team is aware of and support plans for strengthening national legal and policy environments as described in this proposal. Each agency provides technical support in its area of expertise and where possible, co-financing for activities. There is a strict division of labour between UN Agencies, enabling each agency to work in and contribute its own areas of expertise, avoiding duplication of both funding and technical support. For issues relating to LGBT, women and girls and SRHR, for example, UNFPA provides expertise in **service provision**, while UNDP provides expertise in **policy and law**, which is the focus of Sida support to UNDP in this project.

Quarterly meetings are held of the full Regional UN Joint Teams on AIDS in Johannesburg and Dakar. These meetings are to review progress on joint activities under the 10 goals in the UNAIDS Strategic Plan (Getting to Zero), to share information on support to countries in each region and to plan for the next quarter. In March 2015, UNAIDS convened special consultations on their forthcoming new Strategic Plan (2016-2021) and the UNDP HHD Team were invited to participate and provide their inputs to it.

In addition meetings for UN Agencies collaborating in each of the goal or outcome areas are called by the convening agency or agencies as required. These meetings are to co-ordinate technical support and maximise synergies between the activities of different agencies. At country level, this Joint Team arrangement is replicated, with domestication of mandates according to the presence and capacity of different Agencies.

The proposed Phase II of the project will benefit from these mechanisms at regional and national level by helping to avoid duplication and by being able to draw on relative strengths, knowledge and capacities of individual Agencies. In relation to key population issues (defined by UNAIDS as men who have sex with men, transgendered people, people who sell sex and people who inject drugs), each agency has a specific mandate globally, as shown in the table below:

Table 3: UN Agency mandates in working with Women, Girls, LGBT and Key Populations

- | |
|---|
| <ul style="list-style-type: none">• UNDP supports countries to work effectively with key populations on HIV, primarily focusing on the use of law, public policy and inclusive governance to promote an enabling environment for public health and human rights, and to reduce HIV-related vulnerability. UNDP is the Secretariat of the Global Commission on HIV and the Law, with projects across regions focusing on following up the recommendations articulated in the 2012 report – <i>Risks, Rights and Health</i>.• UNFPA and UNDP (sex work, men who have sex with men and transgender people) and UNODC (people who use drugs) lead the broader UN family together with civil society partners to strengthen UN staff capacities to work with key populations and contribute to the generation of relevant strategic information, the scale-up and quality enhancement of programmes and services, and the facilitation of |
|---|

cross-population and cross-sector partnerships, and to strengthen UN staff capacities to work with key populations.

- UNFPA supports countries through policy, systems and service delivery to ensure access to quality sexual reproductive health and HIV prevention services for men who have sex with men, sex workers and their clients and transgender people. UNFPA also advocates for the meaningful participation and capacity strengthening of these key populations and supports programmes to address stigma and gender based violence they experience.
- UN Women brings gender equality and human rights perspectives to its work on women and HIV and AIDS and spearheads strategies that make clear links to factors propelling the epidemic, such as violence against women, denial of legal rights and women's limited participation in decision-making. The single most important strategy is empowering women and guaranteeing their rights so that they can protect themselves from infection, overcome stigma, and gain greater access to treatment, care and support.
- The World Bank conducts analytic work to support evidence building for strengthened policies.
- In partnership with UNDP, WHO and UNAIDS, the World Bank is concluding a major new synthesis analysis of the global epidemics of HIV in MSM.
- In partnership with UNFPA, the World Bank will conduct a major new synthesis analysis of the global epidemics of HIV in Sex Workers.
- These products combine and critically review epidemiological evidence of the transmission of HIV, rigorously review the evidence of efficacy and intervention costs, and model the costs and impact of addressing the needs of these populations at scale in various epidemic contexts.
- UNESCO is a member of the Advisory Group on Sex Work and actively supports national responses to the needs of MSM in several regions.
- UNESCO strengthens support for these key populations, particularly in the area of prevention, through strengthening the capacity of regional advocacy and information networks and supporting peer education programmes.
- WHO synthesizes the evidence on the effectiveness of interventions for men who have sex with men, sex workers and transgender people and coordinates the development of comprehensive health sector guidance for men who have sex with men, sex workers and transgender people tailored to the epidemic context.
- WHO works on strategic information to measure HIV incidence, HIV and STI case reporting HIV and STI surveillance and provides tools and guidance to address stigma and discrimination in the health sector and supports enabling social and legislation environment that enable the delivery of these services.

3.4 UNDP HIV, Health and Development Team Architecture

In 2013-2014, UNDP underwent extensive restructuring. As an outcome, from October, 1, 2014, UNDP changed its previous '**practice architecture**', to a '**cluster- and team-based**' approach. The goals of the restructuring were to promote better integration, both functionally and geographically (a) through **strengthening UNDP's regional presence** through locating more advisory and support services to regional hubs to help Country Offices to deliver better, faster and cheaper; (b) through **consolidating policy functions** by improving programme quality, research and development, and benefiting from better knowledge and business intelligence, while operating more efficiently; and (c) by **rationalising**

management support by allowing relevant bureaux to concentrate on programme implementation and on their core competencies, and by avoiding duplication.

Additionally, the new restructuring strengthens the Regional Centres (or ‘Hubs’), which are staffed by in-house policy specialists that provide policy advisory services and technical support to country offices and programmes in their region, and deliver quality results more efficiently. The strengthened Regional Centres are expected to focus on providing support for improved results-based management and quality assurance to country offices; support programme and project implementation; support regional contribution to global policy development, and support country offices on UNDP Strategic Plan alignment in addition to usual support for region-specific policy advocacy and advisory services.

The Regional Centres are able to quickly mobilise support by connecting UNDP country offices and national partners to UNDP’s global network of development experts – both inside and outside the organisation, and to United Nations specialised agencies. The Centres manage regional projects and also document and share development successes and best practices throughout their region and beyond. The new architecture will continue to enable learning and sharing of best practices across regions, and promote cross-practice engagement to ensure that programmes benefit from a holistic and integrated development approach.

Whilst the Regional HHD Team will be responsible for managing the programme overall and for working with the regional institutions, the global UNDP HIV, Health and Development team will take a lead on developing guidance (with inputs from regional and country teams and from the regional entities like the Project Management Committee). The UNDP Country Offices will manage agreed in-country activities with technical support from the Regional Team. To make the most efficient use of resources, much of the work will be carried out by email and meetings held on Skype. Where absolutely necessary and where there is a clear role for a regional team member, visits will be made to countries. Annual missions for the programme to attend the Project Management Committee meetings in Africa will be made by the HIV, Health and Development Team Leader located in New York. The HHD Focal points from UNDP Country Offices generally meet together every other year and are actively encouraged to regularly share their learnings and challenges with one another by email and through the UNDP online platform known as TEAMWORKS and through the dedicated website for the Project located at the www.hivlawcommission.org/africa.

3.5 UNDP Internal Fund Transfer Mechanisms

The roles of the global, regional and country teams are therefore clear for the proposed programme and mechanisms for joint planning and internal allocation of budgets are very well streamlined. Funds for country-level activities will be provided to UNDP Country Offices using one of 3 modalities:

- 1) A chart of accounts is provided to Country Offices within the project and under the Regional Office department;
- 2) Funds are decentralized to Country Office departments within the project;
- 3) Funds are transferred to a Country Office project.

The project will primarily use the first modality in order to enable the Regional Team to have the greatest degree of direct oversight over country-level expenditures. Modalities 2 and 3 may be used occasionally

if there is specific justification. For example, option 3 may be considered in cases where a country office already has a project that is implementing linked activities.

The first modality enables Country Offices to spend directly against the project and regional centre department, but requires the Regional Team to manage and oversee all financial transactions. Using this modality, a chart of accounts is provided to Country Offices detailing the financial information that can be used for initiating a specific activity and sets a ceiling amount for how much the Office can spend, in line with the project document and approved work-plan. The chart of accounts also provides a framework for budgeting, recording and reporting on financial transactions at country level. All transactions are reviewed and approved by the Regional Team on the basis of UNDP's Internal Control Framework, which segregates duties of individuals to minimize conflict of interest or inappropriate use of funds. The first step towards purchasing goods or services at country-level is creating a requisition, or a pre-order commitment, that must be approved by the Project Manager (Africa Regional Team Leader). Purchase Orders and vouchers are then created to purchase and pay for goods or services, and are approved by an Approving Manager (the Regional Centre Operations Manager).

Planning of activities will be undertaken by the Regional Team jointly with UNDP Country Offices based on consultations with regional and national stakeholders and partners. Monitoring and reporting will take place at both country-level and regionally. Countries will integrate their work under the project in UNDP Country Office Annual Work-plans and monitor and report progress and results through the Annual Work-plan monitoring exercise and the UNDP Results Oriented Annual Report. Similarly, the project will be a core component of the Africa Regional Centre, the Bureau for Policy and Programme Support (HQ) Annual Work-plans and monitoring and reporting will follow UNDP's regional and global frameworks.

3.6 UNDP Country Office Capacity

UNDP has a presence on the ground in 177 countries and territories and decades of concrete development experience in countries ranging from fragile states to middle-income countries, including as coordinator of the UN development system at the country level. In 2013, the global expenditure for development activities amounted to \$4.24 billion.³⁹ Total expenditure in UN development coordination, management and special purpose categories during that time reached \$0.23 billion, \$0.93 billion and \$0.13 billion respectively.⁴⁰ A recent evaluation of UNDP's partnership with Global Funds and Philanthropic Foundations (including the Global Fund to Fight AIDS, Tuberculosis and Malaria) highlighted the following UNDP comparative advantages in implementing programmes:

- Country presence and a network of offices gave national stakeholders direct access to staff and the confidence that project management was done on-site;
- Administrative and implementation capacity, including human resources capacity in many country offices, and access to development professionals and technical experts through the international network;
- Focus on smaller national projects and grants in enabling activities and capacity development— aspects that were not always of interest to other potential implementing agencies; and
- Neutrality in politically exceptional or unstable contexts.

The most recent report on UNDP by the Multilateral Organisation Performance Assessment Network (MOPAN) – a network of 15 donor countries, states: *“UNDP's key strengths are based on the indicators*

that are rated as “strong” by more than one respondent group or have received a rating of “strong” overall. These include:

- Focus on thematic priorities: UNDP’s focus on thematic priorities is rated strongly by its partners. Its strategic focus on good governance is a key strength according to both country level respondents and headquarter-based donors. At the country level, its focus on **gender equality and human rights-based approaches to development** is rated strongly by MOPAN members and partners.
- Contributing to policy dialogue: is seen to be a key strength by MOPAN members at headquarters and partners.
- Delegating decision making: Managing project tasks at country level is seen as a key strength by country donors. Partners rate all aspects of delegating decision making strongly.
- Allocating core budget according to published criteria: is seen to be a key strength by HQ donors. Partners also rate this micro-indicator strongly.
- Audit practices: Corporate and internal audit practices are a key UNDP strength according to MOPAN members at headquarters. Its national partners provide a strong rating for its project audit requirements.”⁴¹

Other recent evaluations provide a positive assessment of UNDP’s contribution across the three HIV outcomes of the UNDP Strategic Plan. A recent analysis of evaluations from 15 countries (Country Assessments of Development Results) highlighted UNDP’s key value-added in strengthening capacity to respond to HIV; creating enabling legal environments and promoting gender equality; enhancing local level implementation and civil society engagement; and improving national planning. A detailed list of UNDP HHD focal points in each of the proposed project countries is included in Annex 2, in the 2014 UNDP HIV Law Annual Report.

3.7 Partnerships with RECs and Civil Society Organisations

UNDP has an agreement in place to provide financial support to the AUC if necessary. In terms of the RECs, however, the HIV Team has found co-financing of activities with SADC, EAC and ECOWAS to be generally more effective than sub-granting. Co-financing allows for the development of a true and equal partnership and facilitates the provision of technical support from UNDP. It also enables UNDP to have some control over the timing, style and quality of implementation of joint activities.

Civil Society Organisations (CSOs) are a crucial resource, constituency and partner for UNDP in advancing sustainable human development goals and principles. In engaging with civil society, UNDP recognizes the differentiated impact of development on diverse vulnerable populations and the importance of ensuring that they participate effectively and have a voice in key development policy processes affecting their lives. Apart from the Africa Forum described in section 2.7, collaboration with CSOs may occur in various formal and informal ways and entail a different degree of responsibilities from the parties involved. During Phase 1 of this project, UNDP partnered strategically with CSOs with the purpose of exchanging information, policy perspectives, developing joint initiatives, or co-convening and facilitating development processes. Civil society organizations and individuals also participated in formal or informal consultations (for example CSO representatives participated as panellists during a UNDP-supported Side Event at the Special

Summit of the African Union on HIV/AIDS, Tuberculosis and Malaria held in Abuja in 2013). During the Phase 2 of the project, similar collaboration is envisaged, and it is hoped that most country level collaboration will be with LGBT Networks, Women's organizations (including community based), HIV Positive Networks and Human Rights organizations.

When the collaboration entails specific responsibilities, the partnership is adequately defined and formalised according to UNDP existing modalities and instruments. UNDP can formalise partnerships and collaboration with civil society organizations in various ways depending on the nature of the envisioned partnership and degree of responsibilities.

There are 5 formal modalities of engaging CSOs in UNDP projects and initiatives as per the categories described below.

1. CSO as Strategic Partner for Human Development
2. CSO as Implementing Partner of a project in the context of a UNDP CPD/CPAP
3. CSO as Recipient of Grant(s), (credit related and non-credit related micro grants)
4. CSO as a Contractor (vendor)
5. CSO as Contributor of funds to a project.

A CSO can be considered as a Strategic Partner when UNDP and the CSO are interested in formalizing a cooperation framework to pursue a wide range of common development goals. Under the first modality listed above, ***CSO as a Strategic Partner for Human Development*** a Memorandum of Understanding, referred to as an MoU, can be entered into between the UNDP and relevant CSOs for the purpose of formalizing the parties' intention and commitment to work together towards human development and long-term partnership. This modality can be very useful. For example, from 2009 to 2011, UNDP entered into MoUs for successful joint activities on HIV with regional organisations such as AMSHeR (through the organisation OUT LGBT Well Being), Sonke Gender Justice, The World AIDS Campaign (WAC) and INERELA+. In addition, during Phase 1 UNDP partnered with KELIN and the Judges' Training Institute of Kenya to conduct a regional judges' dialogue. During this phase, in addition to formal 'partnerships', UNDP worked closely with experts from regional organisations: like SALC, ARASA, MANERELA+ and SAT.

All the activities in the proposed programme will be managed directly by UNDP, albeit in partnership with government and civil society, so no sub-granting is envisaged. Consequently this first CSO partnership modality will be the only formal one used by the programme and only where necessary for joint working.

In terms of who decides the level and extent of participation of civil society organisation and individuals, there are implementation guidelines for each activity that aim to ensure an inclusive, participatory and accountable process. A national Steering Committee is set up in each country to guide government-led activities such as the LEA, the National Action Planning and work to follow up national recommendations for law and policy change. This Steering Committee comprises government, civil society and UN members and they are jointly responsible for advising on who is invited to participate at each stage. In addition, the implementation guidelines stipulate that a concept note and list of participants be drawn up for each activity and shared for comment with a wide range of national and regional partners as applicable. Implementation guidelines in phase II will be updated to reflect the new Sida strategy emphasis on SRHR.

As during the Phase I of the Project, UNDP will continue to work in close synergy with relevant existing **Sida Partners**. Based on their specific strengths, such partner organisations will continue to be invited to provide technical inputs into regional trainings, LEAs, National Dialogues, and in law reform. Through these programme activities, organisations will be able to strengthen their own capacity on HIV and the law and in particular for advocacy for the rights of LGBT people and women and girls. The organisations that UNDP has worked in synergy with during the Phase I and will continue to partner with during the Phase II include organisations like ARASA, AMSHeR, ASWA, SALC, Women and Law in Southern Africa Research and Educational Trust (WLSA), CAL, INERELA+, MANERELA+, Sonke Gender Justice, CEDEP, KELIN and SAT.

3.8 Consultant Procurement

UNDP works regularly with a number of consultant attorneys from the region who provide specialist technical advice to countries. During the Phase 1 of the Project, a number of regional consultants at the regional level as well as at the country level were recruited under UNDP's procurement policy for this programme – to conduct LEAs, to carry out research and to facilitate follow-up activities and capacity strengthening. UNDP maintains a consultant roster and will continue to use consultants during this Phase of the Project. In addition, UNDP procured the services of an external organisation the Programme for Global Health and Human Rights (University of Southern California) through an open tendering process to conduct the Mid-term Evaluation as per the Project work plan. Similar research and evaluation organisations / teams are expected to be hired during the Phase 2 of the Project to fulfil specific pieces of work including developing detailed country case studies, documenting lessons learned and developing evidence for action. At the end of Phase 2 an external evaluator / organisation will be hired to conduct the End-term Project Evaluation as well.

As a general policy, the Individual Contract modality is used for the procurement of services of an individual to perform time-bound and non-staff tasks aimed at delivering clear and quantifiable outputs which must be clearly identified in the contract and directly linked to payment. The engagement of individuals as Contractors under the Individual Contract modality or under Institutional Contract modality is subject to the general procurement principles established by the UNDP Financial Rules and Regulations, namely:

- (a) Best value for money, which is understood as acquiring the best personal services at the most competitive rates for a particular skill, reflective of local and current market conditions.
- (b) Fairness, integrity and transparency, with selection and management processes that are based on the UNDP Financial Regulations and Rules as well as UNDP procedures more generally, and that ensure that business units are accountable for the proper use of the Individual Contract modality and its results, and that decisions are made in an open manner.
- (c) Effective competition, meaning that Individual Contracts must be awarded through a competitive selection process amongst skilled and highly qualified individuals; and
- (d) The interests of UNDP and the United Nations.

(Please see Annex 4. for additional details of UNDP Management, Procurement and Finance practice and for links to UNDP Executive Board-mandated Audit Reports).

4. Monitoring and Evaluation

Monitoring and evaluation (M&E) of this programme to strengthen the legal and policy environment to reduce the impact of HIV and TB on key populations in Africa is a complex piece of work requiring assessment at multiple levels—project, region, national and sub-national—and across diverse political, epidemiological and cultural settings. In order to assess effectiveness and show progress in the legal and policy environment, midterm and endline evaluations are required employing a purposeful mix of quantitative, qualitative and policy measures. As mentioned in section 1.5 above, a mid-term evaluation was carried out in Phase I by an independent body. This will be followed up by a series of in-depth country case studies (described in Activity 7 above) to monitor progress during Phase II and an endline evaluation conducted by an independent organisation in 2018, towards the end of Phase II.

As a cornerstone of this M&E, a human rights-based approach will be employed to bring into focus not only the relevance, effectiveness and sustainability of activities carried out but also the processes of project implementation. Particular attention will be given to the principles of inclusion, participation, equality and non-discrimination, and accountability as addressed in project activities. The endline evaluation will integrate human rights standards in the approach taken to evaluate the progress of grant implementation, evaluate the effects of the interventions, identify where there have been bottlenecks in implementation, promote learning and best practices, and link achieved results to the supported activities.

It is critical that the wide range of interventions included in this project be independently evaluated, and that their complementarities and synergies also be fully understood not only to maximize the individual effectiveness of project activities but to learn how synergies between different interventions may ultimately work in tandem to contribute to the same desired outcome. This is true within countries, as well as across countries. The Endline Evaluation will also focus on assessing and evaluating the technical assistance the two phases of the Project has provided the AUC, and the three RECs (EAC, ECOWAS and SADC) and try to understand how the support provided by the Project has enabled these regional entities and the AUC to fulfil their obligations in the context of HIV policy, regulatory frameworks and laws.

4.1 Proposed methodology and deliverables for Endline Evaluation

The endline evaluation will seek to draw lessons relating to the effectiveness and sustainability of the interventions themselves, as well as any patterns that are discernible across different types of HIV epidemics, legal systems, political systems, mix of interventions etc. In the short term, this should provide information on how these interventions are linked to the progress of the grant. In the longer term, this work will help to maximize contributions to the longer-term desired outcomes and sustainable change.

Development of assessment framework and evaluation work plan

The evaluators will develop an assessment framework that outlines how the evaluation will be operationalized will be drafted. This will include an evaluation matrix that maps each evaluation question to the information required to answer it, sources for that information, the proposed methods of data collection and analysis, an activities timeline and an outline of the evaluation reports.

Data collection

Two primary methodologies are proposed: a desk review of relevant documents at project, regional and national levels, and qualitative data collection, including a combination of semi-structured key informant interviews and focus group discussions with project stakeholders, in all 12 of the project countries, as well as with the AUC (Department of Social Affairs), the EAC, ECOWAS and the SADC. Available project documents and data available at or around the time of the evaluation team briefing will be used to inform all data collection tools including the desk review data extraction tool and qualitative data collection instruments. Attention to ethical considerations will be paramount throughout qualitative data collection, especially in particularly sensitive settings such as meeting with representatives of key populations.

Data analysis

The use of standardized data collection instruments for the desk review and the qualitative data collection will facilitate thematic analyses across documents and interviews/FGDs. The evaluation matrix will highlight how the data extracted from the desk review can be supplemented with the qualitative data (and any additional quantitative data collected) to address each of the evaluation objectives outlined in the inception report. Outputs from the document review data extraction qualitative interviews and quantitative data collection will be analysed jointly. Data collection tools and data analysis will be informed by the theory of change, the evaluation criteria, and human rights norms and standards. This will necessarily involve an iterative process of data immersion across different sources and ensuring systematic attention to the framework guiding the evaluation.

Beyond reviewing the project's success in meeting its targets, the evaluation will also seek to disentangle the different elements of the processes through which these targets were (or were not) achieved in different project settings. As previously noted, particular attention will be given to the principles of inclusion, participation, equality and non-discrimination, and accountability as addressed through project activities. A critical component of this work is a focus on processes, with these principles in mind, in a conscious attempt to better integrate rights into evaluation criteria. This focus on processes includes, for example, seeking to understand to the extent possible who has led the project processes at each level, which partners were engaged in different phases of the project and through what processes, and the extent to which risks to the project were foreseen and mitigated over time with the aim of assessing the difference this has made to outputs. This assessment of processes should help identify the enabling factors and challenges to the project with a view to informing specific and actionable recommendations for its strengthening moving forward.

Given the complexity of effecting change at the various levels at which this project operates and the range of actors required for such change to happen, causal attribution will be difficult to establish at times. However, the focus on understanding the processes through which the project operates in different settings will support assessment of the project's contribution to change.

Deliverables/outputs

- Endline evaluation report for each of the 12 countries, as well as reports from the evaluation exercise conducted with the AUC and the 3 RECs (EAC, ECOWAS and SADC). [Drawing on the project's theory of change, these reports will focus on evaluating the relevance, effectiveness and sustainability of the interventions implemented in the relevant country. Among other things, the endline evaluation will seek to assess changes in: the legal environment discriminatory practices and behaviours, stigma

drivers and manifestations, protection of the rights of key populations, political commitment, financing, and capacity.]

- Endline evaluation report synthesizing lessons learned within and across countries, and the continental and regional entities.
- Framework and Tools used to conduct in-depth country case studies and the endline evaluation.
- Report on milestones and indicators for use at outcome level in further iterations of this project and for dissemination widely beyond this project. It is anticipated that this deliverable will be used to leverage additional funding beyond Sida for human rights projects across the globe.

4.2 Monitoring of Activities and Outputs

Systematic monitoring of the programme during Phase II will be an integral component, as in Phase I.

The M&E components of the project comprise 12.15 % of the total budget and include:

- 30% of the Senior Policy Advisor time
- 10% Country Focal Point time
- Project Management Committee
- Country Case Studies
- End of project evaluation

Monitoring will focus on systematic collection of data from implementation of the various programme activities and from sources listed in the Results Framework (see section 5. Below for details). As recommended by the Mid-term Evaluation report and as advised by the Project Management Committee meeting (Lusaka, February, 2015), additional information will be included in the Phase II Monitoring Process to capture interim milestones that signify that progress towards longer term goals is being made.

Outcomes of each activity will be comprehensively summarized to provide input to the monitoring process. The procedures for progress monitoring and results evaluation will vary by activity but will be coordinated at the regional level by UNDP. Regular activity monitoring reports will feed into results-based communication materials that will be shared with stakeholders, external partners and Sida. There will be an end of agreement programme review undertaken at the end of the implementation phase that will be made available to both internal and external audiences. As mentioned above, the end of agreement evaluation will be done by a party not affiliated with the implementation of the project and will be done in line with Sida guidelines.

Specific progress and the achievement of objectives will be measured against set indicators specified in the Logical Framework for the programme (see section 5. for details).

For internal purposes, the programme will be monitored in accordance with the programming policies and procedures outlined in the UNDP User Guide, including through Atlas tracking systems and the Enhanced Results Based Management system (EBRM). In addition, monitoring and reporting will link with the UNAIDS UBRAF Monitoring and Evaluation Framework and its related indicators. The UBRAF monitoring framework also involves its own mid-term review, peer reviews across UNAIDS Cosponsoring agencies, and annual reporting to the UNAIDS Programme Coordinating Board.

Within the UNDP annual cycle:

- On a quarterly basis, a quality assessment shall record progress towards the completion of key results, based on quality criteria and methods captured in a Quality Management table.
- An Issues Log shall be activated in Atlas and updated by the Project Manager to facilitate tracking and resolution of potential problems or requests for change.
- Based on the initial risk analysis submitted, a risk log shall be activated in Atlas and regularly updated by reviewing the external environment that may affect the project implementation.
- Based on the above information recorded in Atlas, Project Progress Reports shall be submitted by the Project Manager to the Programme Management Committee, using the standard report format available in the Executive Snapshot.
- A project Lesson-learned log shall be activated and regularly updated to ensure on-going learning and adaptation within the organisation, and to facilitate the preparation of a Lessons-learned report at the end of the project'
- A Monitoring Schedule Plan shall be activated in Atlas and updated to track key management actions/events.
- An Annual Review Report shall be prepared by the Project Manager and shared with the Programme Management Committee.
- Based on the above report, an annual project review will be conducted soon after during the fourth quarter of the year to assess the performance of the project and appraise the Annual Work Plan for the following year.

4.3 Communications Strategy

UNDP will continue to ensure that communication and visibility are integrated in the programme plan. At the initiation phase of the project, a communication and visibility plan highlighting the related communication activities was agreed between UNDP and Sida. The main objective of the visibility plan was to communicate the positive results of programme, focusing on outcomes and the impact of results.

UNDP will continue to update and add to the Africa Follow Up site located within the Global Commission on HIV and the Law website, and continue to profile the activities and participants of the project.

UNDP will continue to add information on immediate outcomes of the activities from the points of view of all stakeholders – LGBT people, women and girls, service providers, law enforcement, ministries of justice etc. All communications efforts undertaken by the project will enjoy the support of UNDP's Communication and Knowledge Management units at the country and regional levels.

Following up and continuing from the Phase 1 of the Project, UNDP will continue to produce policy briefs and material for support of its partners. For example, the AUC and the EAC.

4.4 Environmental and Social Screening

The project does not envisage any environmental risks related to implementation of activities. However, efforts will be made to ensure that all activities as much as possible reflect the principles of environmental protection and sustainable development. For example, equipment purchased under the framework of the

project will not violate environmental principles and regulations. Procurement of air travel will be analysed and carefully planned in order to reduce carbon emissions.

To make sure that this is the case, a new project-level environmental and social screening procedure^{xi} launched by UNDP in 2012 and deployed during the Phase 1 of the Project will continue to be applied to this project in Phase 2.

Recent evaluations of two decades of donor experience are showing that the ratio of benefits to costs in introducing safeguard processes such as this is substantial. Such processes not only protect against environmental and/or social damage or harm, but also assist in the clever design of projects so that opportunities are maximized. Application of UNDP's environmental and social screening and review process allows UNDP to demonstrate to partners and stakeholders that there are appropriate safeguard measures in place for projects. UNDP's screening procedure is aligned with the evolving Framework for Advancing Environmental and Social Sustainability in the UN System which identifies three reinforcing normative principles for programming: human rights, gender equality and environmental sustainability. These principles will therefore be mainstreamed into the proposed programme and be considered as part of the screening process. Therefore, the screening procedure aims to enable (rather than constrain) UNDP efforts to support human development. Additionally, the screening procedure strengthens UNDP's accountability to the countries and communities we aim to support, to stakeholders in the development processes, and to the broader development cooperation and donor community.

4.5 Risk Mitigation

As well as screening for risks as described above, other potential programmatic risks will be understood and mitigated for.

The main programmatic risk arises from the very nature of HIV-related law reform processes, which can sometimes be long and complex and which can become politicised. There are many social and political sensitivities around HIV, women's rights, same-sex rights, sexual and reproductive health rights more broadly as well as customary and religious laws, practices, values and norms. Despite the sensitivities around issues of women's rights as well as same-sex issues, protecting and promoting their human rights is critical including in the context of HIV and AIDS. As a result, risk-mitigation strategies have been built into the Project during the Phase I and will continue to be utilised in the Phase II. These include the inclusive and participatory nature of the overall implementation strategy, its focus on broad international, regional and national human rights commitments, and a concrete commitment to transparency and strategic partnerships with key regional and national institutions (e.g.: AU, the EAC, SADC, ECOWAS and the ACHPR Committee, the Ministries of Justice, the Judiciary, etc.). Continued and close interaction and engagement with regional and national civil society groups/networks and with regional and national UN actors will also be vital for mitigating this type of risk. During Phase I of the Project, UNDP gained insights into mitigating risks when engaging with sensitive social and political issues, and will continue to deploy lessons learned from that experience.

For example during the initial year of Phase I implementation, participation of LGBT in LEAs, national dialogues, and Global Fund meetings were envisaged to be challenging. This was addressed firstly by

^{xi} "Projects" are defined here as being the same as are described in a Project Document. The screening procedure is not applicable to management projects.

sensitising project teams, and then through regular advocacy with the government stakeholders. Capacity building of key population networks and organisations was also conducted where necessary (e.g. in the DR Congo). During the second year of the Project, participation of key and LGBT populations was much improved. Countries such as DR Congo registered their first ever face-to-face meetings between key populations and government stakeholders. The project ensured that all regional trainings or capacity building meetings organised by the project had definite and visible participation of key and vulnerable groups in 2014. While more still needs doing, it was noted that no crises or significant political barriers to this work or as a consequence of the project have been experienced at national level so far.

Balancing the need for national ownership with strong technical input was another challenge that was envisaged. However, two strategies have helped the project to address this issue. Firstly, the project initiates a legal assessment or a national dialogue only after national entities have engaged with the issue and agreed to move forward. Secondly, technical support is not only provided regionally, but national experts are always involved in the assessment often as consultants. This 'leading from the back' has helped not only in national buy-in of the project, but has also ensured that national capacity is developed by the project.

An additional risk was national governments potentially feeling that the project is solely about the rights of LGBT, engendering suspicion and a level of mistrust in the project resulting in significant barriers to implementation. Governments may also feel that UNDP is pursuing a particular agenda and working outside of its remit as an impartial policy advisor to government. These risks will be mitigated by the project being, as mentioned above, part of a larger process of general HIV-related legal environment strengthening. As shown in UNDP's work on LEA in Malawi and in DR Congo, key stakeholders, some nervous at the outset, were very pleased to see that the LEAs showed gaps in legislation, access to justice and implementation of the law across a wide variety of issues – including for children, in the workplace, relating to access to medicines etc. Priority issues for men who have sex with men, sex workers and injecting drug users came up in exactly the same way as these other, less sensitive issues, and were neither under- nor overstated in the assessment and the LEA report. Key stakeholders were then able to prioritise action in the short/medium and long term according to the levels of comfort felt. This meant that senior government officials felt that they had some control over the pace of change, but that LGBT issues were placed firmly on the agenda. During Phase II, the proposed project will, therefore, continue to address all HIV and rights related issues in the LEAs and national dialogues; just that any follow up action focusing on issues affecting LGBT people and women and girls affected by AIDS will be funded by the proposed project. Other funding (from UN agencies, from government or from national development partners) will be sought for follow up action that specifically addresses other issues.

In addition, various processes utilised during the Phase I of the Project will continue to be deployed in Phase II to mitigate the risks of social and political tensions creating barriers to the achievement of the project's goals. For instance, activities (such as LEAs, National Dialogues and Advocacy/Action Planning Consultations) will be participatory and inclusive and seek to increase the sense of shared responsibility and ownership, and give voice to all government and non-government stakeholders in the process. Country-led as well as regional representative structures like the national technical working groups, the Project Management Committee and the Africa Forum, shall continue to guide and oversee all processes. Various mechanisms for ongoing consultation with all stakeholders that are in use will continue to be utilised during this Phase.

As during Phase I of the Project, rights-based programming principles and the international, regional and national human rights commitments of each country will provide the overarching framework for all activities. As mentioned above, experiences in Malawi, DR Congo, the Seychelles, etc. during Phase I of the Project have shown that taking broad-based human rights approaches to working on HIV, law and human rights issues (rather than a narrow focus on selected key populations such as men who have sex with men) and building in processes that facilitate consultation and ownership amongst partners can help to mitigate risk and allow for inclusion of sensitive issues.

Achieving end-results on sensitive issues (such as the review or reform of laws on same-sex relationships) shall be seen as long-term goals in particularly sensitive contexts, and the focus will be more on identifying, agreeing and planning for the achievement of key recommendations and agreed upon interim milestones. For example, an interim milestone could be inclusion of costed services for LGBT populations in national strategic plans for HIV even in contexts/countries where same sex behaviour is criminalised. Phase II will further focus on creating and sustaining multi-stakeholder national coalitions for law reform and safe spaces for ongoing public dialogue, which are important steps towards achieving results in and of themselves.

4.6 Sustainability and Country, Regional and Continental Ownership

Sustainability, shared responsibility and country, regional and continental ownership will be encouraged in a number of ways including:

- Undertaking country processes and regional/continental engagements in a way that is inclusive, participatory and encourages leadership by representative and multi-sectoral national structures, as detailed above, so that countries, RECs and the AUC (i.e.: government and civil society) participate fully in efforts to assess their legal and regulatory frameworks, identify key gaps and challenges, prioritise recommendations and develop action plans.
- Building on existing work currently being done at both national and regional levels to strengthen legal and regulatory frameworks, and ensuring that HIV and human rights programming is mainstreamed into existing plans, such as national strategic plans on HIV and AIDS, country development plans and UN Development Assistance Frameworks, as well as within RECs and AUC development plans related to health, HIV and the SDGs.
- Including a focus on building the capacity of and providing support to duty-bearers at both national level (e.g. national governments) as well as regional level on issues of HIV, human rights and law.
- Supporting the Africa Key Populations Experts Group made up of LGBT and key population experts from across Africa, to ensure ongoing expertise and support for HIV, law and human rights issues in the region.
- Promoting linking, sharing and learning across countries and across the region to increase long-term national, regional and continental knowledge and capacity in HIV, law and human rights and efforts to strengthen legal and regulatory responses to HIV.
- In terms of financial sustainability, seeking to use the project to both institutionalize on-going action on human rights and HIV and to leverage additional funds from national governments and development partners. UNDP (global, regional, country) and UBRAF resources will also complement

and strengthen the project. In addition, UNDP is actively fundraising globally and regionally for follow-up to the work of the Global Commission, and it is expected that these funds could contribute to deepening/expanding the project.

Sustainability is one of the critical pillars of the programme and these and other measures will be built in right from the planning stage.

While it will be hard for UNDP to commit that countries will ensure funding and begin sharing the costs for their interventions in the context of human rights and the law pertaining to addressing the proposed issues, it is worth emphasising that, as during Phase-I, Phase-II of the project too will be based primarily on ***supporting countries to achieve law/policy reforms*** based on their requests for specific, time-bound and expert support. It has been UNDP's experience that some of the results that have come from such targeted, expert support have had immeasurably positive outcomes/ramifications in the context of increasing / and or easing access to much needed services for vulnerable or key populations.

Similar efforts will be continued during the Phase-II of the project with the expectation that these will result in long-term sustainable change during this phase as well.

5. Results Framework

Table 4: Logical Framework for Phase II

Programme Description	Objectively Verifiable Indicators (OVIs)	Sources and means of Verification	Assumptions
Development Objective: To strengthen Sexual and Reproductive Health and Rights in Sub-Saharan Africa	Reduction in legal and policy barriers to access to HIV and SRHR services, particularly for LGBT, women and girls	UNAIDS Annual Report for Sub-Saharan Africa UNGASS Reports	
Overall Programme Objective: To strengthen national and regional legal environments relating to HIV/SRHR, particularly relating to prevention of child marriages and sexual and gender-based violence, including female genital mutilation and to human rights for LGBT people	Number of selected countries with non-discriminatory laws or regulations in Sub-Saharan Africa which specify protection for girls and women in relation to prevention of child marriages and sexual and gender-based violence, including female genital mutilation and to the prevention of human rights violations against LGBT people	UN Joint Teams on AIDS Surveys UNDP Country Office Annual Reports National Commitments and Policies Instrument Reports (NCPI) ⁴²	Addressing harmful impact of punitive and discriminatory laws, regulations and practices increases access to HIV prevention and treatment and other SRHR services for stigmatised groups such as LGBT people and for women and girls
Specific Objective 1: Strengthening the capacity of national governments to put in place legal environments that respect the rights of LGBT people and which protect the HIV and SRH rights of women and girls	Number of countries improving legal environments, either weakening /repealing punitive laws or practices relating to child marriage and sexual and gender-based violence, including female genital mutilation and which violate the rights of LGBT people or enacting/strengthening protective, non-discrimination laws or practices, with UNDP support ^{xii}	UN Joint Teams on AIDS Surveys UNDP Country Office Annual Reports National Commitments and Policies Instrument Reports (NCPI) Media reports	Strong legal frameworks on key issues affecting LGBT people and women and girls are an essential component of effective HIV/SRHR response strategies
Specific Objective 2: Strengthening the capacity of regional and national civil	Number of countries increasing HIV/SRHR-related access to justice programming for LGBT	UN Joint Teams on AIDS Surveys	The participation and engagement of civil society in advocating

^{xii} This will include but not be limited to building national capacity to: review overly broad provisions that criminalise intentional transmission of HIV; review laws that criminalise abortion or prohibit access to contraception; Enact and enforce laws to prohibit domestic violence, rape including marital rape and sexual assault; Prohibit forced abortion, sterilisation and other forms of violence in health care; Enact and enforce laws to prohibit harmful norms such as early marriage, widow inheritance, etc.; Enact and enforce right of every child to comprehensive sexual health education; Enact and enforce laws to ensure young people have safe access to HIV and SRHR services; Reform laws to ensure age of consent for autonomous access to HIV and SRH services is equal to or lower than age of consent for sex; Repeal laws prohibiting sex work and use of civil / administrative offences to penalise sex work; Stop police harassment and mandatory HIV testing; Ensure anti-trafficking laws punish those using force, coercion; and enforce laws against child sexual abuse as opposed to consensual adult sex work

Programme Description	Objectively Verifiable Indicators (OVIs)	Sources and means of Verification	Assumptions
society organisations including community-based groups to claim rights and advocate for strengthened national legal environments	people and women and girls (through legal services, legal literacy, addressing informal /customary law, judicial sensitization), with UNDP support	UNDP Country Office Annual Reports National Commitments and Policies Instrument Reports (NCPI) Media reports	for evidence and rights based laws in support of effective HIV/SRHR responses is essential to promoting action to strengthen legal environments
Specific Objective 3: Strengthening the capacity and leadership of regional economic communities to facilitate Member States to put in place legal environments that respect the rights of LGBT people and women and girls	Number of RECs supporting Member States to strengthen legal environments for prevention of child marriages and sexual and gender-based violence, including female genital mutilation and to the prevention of human rights violations against LGBT people	REC Annual reports	Support from the RECs is necessary to help countries align with and develop sub-regional laws and model bills on HIV/SRHR
Specific Objective 4: Strengthened understanding of appropriate indicators and monitoring and evaluation processes that help promote accountability for implementation of human rights enabling activities that arise from legal assessments	Number of countries using indicators and milestones developed by the project to monitor the strength of the legal environment in relation to HIV and SRHR, e.g. status of review of key laws, status of capacity building of law makers and enforcers to ensure enforcement of protective laws	National Plans and Global Fund proposals	Developing and standardising indicators for human rights work will enable better tracking of progress and potentially encourage countries to operationalise human rights commitments in the context of HIV and SRHR more broadly

Expected Results	Indicators	Sources of Information	Baseline	Targets by year	Necessary conditions
Outcome Level 1: Law, policy or strategy review, implementation or enforcement of laws relating to HIV/SRHR which positively impact on women and girls strengthened	Number of countries engaged in LEA follow-up for relevant law, policy and/or strategy reform or capacity strengthening of key stakeholders particularly in relation to prevention of child marriages and sexual and gender-based	Draft laws, policy and strategy reviews, Meeting and training reports, Participant lists	As determined by LEA which is the baseline for each country	2016: 2 countries engaged in activities to strengthen the legal and policy environment for women and girls; 2017: 2 additional; 2018: 2 additional	Environment created in which civil society and community based organisations/individuals can safely and fully participate in debate on human rights and law and capacity building on human rights and law

Expected Results	Indicators	Sources of Information	Baseline	Targets by year	Necessary conditions
	violence, including female genital mutilation				
Outcome Level 2: Law, policy or strategy review, implementation or enforcement of laws relating to HIV/SRHR which positively impact on LGBT affected by strengthened	Number of Countries engaged in LEA follow-up for relevant law, policy and/or strategy reform, or capacity strengthening of key stakeholders ^{xiii} Number of countries that include transgender issues in their policies or national strategic plans	Draft laws, policy and strategy reviews, Meeting and training reports, Participant lists	As determined by LEA which is the baseline for each country	2016: 2 countries engaged in activities to strengthen the legal and policy environment for LGBT 2017: 2 additional; 2018: 2 additional 2017: 1 country including TG issues in policy or plan 2018: 1 additional	Environment created in which civil society and community based organisations/individuals can safely and fully participate in debate on human rights and law and capacity building on human rights and law
Output level 1: Gaps in adherence to international and regional human rights standards related to HIV and SRHR more broadly successfully identified	Number of Countries which have completed LEAs Percentage of CSOs representing SRHR issues, gender and LGBT people participating in LEA processes	Meeting and training reports Participant lists LEA Reports.	LEAs completed (by end of 2015) in Lesotho, Swaziland, Namibia, Burkina and Gabon.	2016: 3 additional countries completed LEAs; 2017: 2 additional; 2018: 2 additional Of stakeholder organisations consulted during LEA, at least 50% should represent women/girls and 20% should represent LGBT people	Selected governments willing to conduct review and reform of legal environment
Output Level 2: Accountability established for following up a nationally agreed prioritised plan of action to strengthen legal environments for HIV and SRHR more broadly	Number of countries with validated action plans and mechanism for accountability for LEA follow up	Meeting and training reports Participant lists LEA Reports and Action Plans	No country has action plan with mechanism for accountability for LEA follow up	2016: 3 additional countries completed action plans; 2017: 2 additional; 2018: 2 additional	Selected governments willing to be accountable for reform of legal environment

^{xiii} Particularly in relation to preventing human rights violations against LGBT people

Expected Results	Indicators	Sources of Information	Baseline	Targets by year	Necessary conditions
Output Level 3: Capacity to apply human rights principles in HIV/SRHR-related work strengthened through collective capacity building initiatives for key stakeholders (police, NAC, judiciary, Ministry of Justice, parliamentarians, National Human Rights Institutions, LGBT groups etc.)	Number of capacity strengthening activities for key stakeholders ^{xiv} Number of countries institutionalising capacity strengthening for the judiciary or law enforcement in their national plans	Reports from capacity strengthening events, and regional judges forum, participants lists National plans, reviews of national plans	As determined by LEA which is the baseline for each country	2016: 2 regional and 4 country level; 2017: 2 regional and 4 country level 2018: 2 regional and 4 country level 2017: 1 country institutionalising capacity strengthening 2018: 1 additional	Environment created in which civil society and community based organisations/individuals can safely and fully participate in debate on human rights and law and capacity building on human rights and law
Output Level 4: Strengthened understanding of the links between human rights, HIV and SRHR more broadly in 3 RECs	Number of Member States/Partner States in the process of aligning their national laws, policies and strategies as per regional frameworks and/or model laws	REC Annual reports National law, policy, strategy reviews	No countries have aligned as yet	2018: 3 countries in process of aligning national law/policy or strategy with regional frameworks	That RECs can work with member states to agree frameworks the need aligning to
Output Level 5: Strengthened understanding and application of human rights and HIV/SRHR-related indicators and milestones	Number of countries using appropriate indicators or milestones to track progress/change in legal environments	Indicators in national plans and proposals	None	2018 2 countries using appropriate indicators	That human rights components are explicit and budgeted in national plans

^{xiv} This will include but not be limited to building national capacity to: review overly broad provisions that criminalise intentional transmission of HIV; review laws that criminalise abortion or prohibit access to contraception; Enact and enforce laws to prohibit domestic violence, rape including marital rape and sexual assault; Prohibit forced abortion, sterilisation and other forms of violence in health care; Enact and enforce laws to prohibit harmful norms such as early marriage, widow inheritance, etc.; Enact and enforce right of every child to comprehensive sexual health education; Enact and enforce laws to ensure young people have safe access to HIV and SRHR services; Reform laws to ensure age of consent for autonomous access to HIV and SRH services is equal to or lower than age of consent for sex; Repeal laws prohibiting sex work and use of civil / administrative offences to penalise sex work; Stop police harassment and mandatory HIV testing; Ensure anti-trafficking laws punish those using force, coercion; and enforce laws against child sexual abuse as opposed to consensual adult sex work

Table 5. Activities and Deliverables planned during Phase II of the Project (2016-2018)

Activities	Deliverables
Activity 1: Legal Environment Assessments (LEA)	<p>Phase II will support 6 LEAs and the completion and validation of national action plans that include mechanisms to ensure accountability and monitor progress</p> <p>6 National LEA Reports will be produced</p> <p>7 National meetings/dialogues will be held</p> <p>7 National LEA validation and action planning meetings will be held</p> <p>7 Action Plans will be produced</p>
Activity 2: Mapping of the Political and Cultural Context	<p>Phase II will support 7 countries to map the political and cultural context</p> <p>7 National Reports will be produced</p>
Activity 3: Addressing Gaps/Legal Environment weaknesses that are identified in LEAs	<p>Phase II will allocate a certain amount of funding to each of the 12 countries to support the following activities at national level to follow up recommendations made by LEAs. Each country will prioritise how to use the funding and submit an annual budget and concept. Deliverables will be reports from activities:</p> <ul style="list-style-type: none"> • Reforming/repealing laws – including supporting constitutional review where relevant; • Activities to reduce stigma and discrimination; • Training and sensitising on HIV/SRHR, law and human rights issues for LGBT and most at risk populations; • Training in HIV/SRHR and human rights for service providers, parliamentarians, police and prison services, the judiciary and the magistracy; • Capacitating Human Rights Commissions and other national human rights institutions; • Activities aimed at reducing gender inequality, harmful gender norms and gender-based violence; • Specific activities to foster collective dialogue and capacity building on HIV/SRHR, law and human rights issues between civil society and government • Specific activities to strengthen civil society capacity for advocacy and legal support services; • Activities to strengthen capacity of lawyers, paralegals and civil society for strategic litigation.
Activity 4: Regional Guidance	<p>One guidance / best practice document will be produced and disseminated electronically each programme year.</p> <p>3 guidance / best practice documents will be produced</p>

	3 Regional meetings will be held to develop/disseminate guidance
Activity 5: Work with AUC and RECs	<p>The programme will support 3 RECs to integrate the rights of PLHIV, women, girls and/or LGBT populations in sub-regional frameworks and promote accountability for such in Member States</p> <p>3 Sub-regional frameworks on HIV/SRHR and human rights developed</p>
Activity 6: In-depth Country Case Studies	<p>The programme will support 4 in-depth Country Case Studies with a view to developing a framework for M&E that will be applicable beyond this programme.</p> <p>4 Country case studies</p> <p>Framework for M&E of human rights projects</p>

Activities	Means	Sources to show progress	Partners
Activity 1: Legal Environment Assessments (LEA) 6 National LEA Reports will be produced 7 National meetings/dialogues will be held 7 National LEA validation and action planning meetings will be held 7 Action Plans will be produced	Consultants Venue/meeting costs Travel DSA Production of reports	LEA reports and national meeting reports	UN Joint Teams on AIDS Regional Human Rights and LGBT NGOs
Activity 2: Mapping of the Political and Cultural Context 7 National Reports will be produced	Consultants Venue/meeting costs Travel DSA Production of reports	Mapping reports	UN Joint Teams on AIDS Regional Human Rights and LGBT NGOs
Activity 3: Addressing Gaps/Legal Environment weaknesses that are identified in LEAs	Consultants Venue/meeting costs Travel DSA Production of reports	Quarterly activity and progress reports from each country	UN Joint Teams on AIDS Regional Human Rights and LGBT NGOs
Activity 4: Regional Guidance 3 guidance / best practice documents will be produced 3 Regional meetings will be held to develop/disseminate guidance	Consultants Venue/meeting costs Travel DSA Translation Production of reports	Guidance documents Meeting reports	UN Joint Teams on AIDS Regional Human Rights and LGBT NGOs
Activity 5: Work with AUC and RECs 3 Sub-regional strategies on HIV and human rights developed	Consultants Venue/meeting costs Travel DSA Production of reports	Sub-regional frameworks	UN Joint Teams on AIDS Regional Human Rights and LGBT NGOs
Activity 6: In-depth Country Case Studies 4 Case Studies developed M&E Framework developed	Consultants Venue/meeting costs Travel DSA Production of reports	Case studies	UN Joint Teams on AIDS Regional Human Rights and LGBT NGOs

6. Summary Budget in SEK and USD

CONFIDENTIAL

7. List of Annexes

Annex 1: 2013 Annual Report UNDP HIV Law Project (Phase I) – separate document

Annex 2: 2014 Annual Report UNDP HIV Law Project (Phase I) – separate document

Annex 3: UNDP HIV Law Project Mid Term Evaluation Report – separate document

Annex 4: UNDP Management, Procurement and Finance Practice – separate document

Annex 5: Detailed Budget – separate document

Annex 6: Agreed Targets– separate document

Annex 7: Phase II project Organogram – separate document

Annex 8: Phase II Project Focus Countries

Country	Status: HIV, Law, Human Rights and Opportunities
1. Angola	<p>Is a member of SADC and has an HIV-specific law, Law 8/04 on HIV and AIDS dating back to 2004 which contains both protective as well as punitive provisions that place obligations upon PLHIV, such as women with HIV, to disclose their HIV status. The HIV law does not deal with the rights of women and girls and key populations. Key HIV-related human rights issues in Angola include GBV and the inequitable rights of women to property, inheritance and SRH. Same sex relationships are criminalised by the Penal Code and discrimination against sexual minorities is a key concern, although the NSP does recognise MSM as a key population.</p> <p>As a member of SADC and one of the earliest countries to develop an HIV-specific law, would benefit from a review of the law in alignment with the SADC PF Model Law and other continental frameworks. Additionally, efforts to strengthen access to justice and law enforcement have been identified as critical, particularly with respect to reducing stigma and discrimination and improving access to justice for sexual minorities, and for supporting the implementation and enforcement of the 2011 domestic violence law to protect women and girls from GBV.</p>
2. Burkina Faso	<p>Burkina Faso is a member of ECOWAS. Burkina Faso has an HIV Law of 2008 which includes various forms of protection from discrimination but also punitive provisions that criminalise non-disclosure of HIV status and exposing a sexual partner to HIV. The NSP recognises GBV, including FGM, as an issue of concern and identifies the need for stronger laws and programmes to prohibit GBV.</p> <p>As a member of ECOWAS, Burkina Faso would benefit from reviewing its law, policies and strategies to incorporate a stronger focus on the rights of women, girls and LGBT populations in the context of HIV and to remove punitive, criminalisation provisions that disproportionately impact upon women. Notably, recent initiatives to introduce an anti-homosexuality bill in Parliament were overcome making it an opportune time to ensure concrete protection for LGBT rights in the country.</p>

Country	Status: HIV, Law, Human Rights and Opportunities
3. Cameroon	<p>Cameroon carried out an LEA in 2014 as well as a situational analysis of access to justice for PLHIV. The need for strengthened access to justice was a key focus of the LEA recommendations. Cameroon has a draft provision criminalising HIV transmission as well as laws that criminalise same sex sexual relationships.</p> <p>The recent completion of an LEA has increased the awareness and understanding of HIV and human rights issues in Cameroon. In addition, an opportunity exists in the inclusion of women, girls and LGBT populations in the GF Concept Note.</p>
4. Chad	<p>Chad has an HIV law that criminalises HIV transmission. Does not criminalise same sex relationships.</p> <p>There is an opportunity to work with key stakeholders to minimise violence against women in post conflict setting.</p>
5. Democratic Republic of Congo	<p>Is a member of SADC and has an HIV law 11/2008 for the Protection of People Living with HIV and those affected by HIV. However, the law needs to be revised with a view to providing more protection for women and girls and for LGBT people and to remove punitive provisions. The LEA conducted during 2013 identified the need to also strengthen the capacity of the judiciary and parliamentarians on human rights and HIV.</p> <p>A significant amount of work has been done during the LEA and follow up, to create a climate conducive to law and policy review and reform and strengthened access to justice, to strengthen protection for PLHIV, women, girls and LGBT populations. It is an opportune time to consolidate and promote accountability for commitments made in the action plan, to following through with reviewing and reforming laws and to monitoring the implementation of laws to protect PLHIV, women and girls as well as LGBT populations, amongst other things.</p>
6. Gabon	<p>Does not have an HIV law, does not criminalise same-sex relationships</p> <p>Is currently carrying out an LEA and there is opportunity for follow up in terms of law and policy review.</p>
7. Ghana	<p>Ghana is a member of ECOWAS. Ghana has a draft HIV law that is yet to be finalised. A National Dialogue process held in 2013 identified the failure to protect LGBT populations as well as the criminalisation of HIV transmission provisions within the Bill as concerns, amongst others. Under Ghanaian criminal law, same-sex sexual activity among males is unlawful, contributing to stigma and discrimination against LGBT populations in the country.</p> <p>The country has held a National Dialogue on HIV and the Law and expressed commitment for including LGBT populations in national responses to HIV as well as to reviewing the draft HIV bill to remove punitive provisions. The NSP includes and prioritises populations such as women and girls and men who have sex with men. Ghana would benefit from a review of law and policy to support greater protection for the rights of women, girls and LGBT populations in the context of HIV, in line with the ECOWAS draft Minimum Legal Framework.</p>
8. Lesotho	<p>Lesotho is a member of SADC. After various years of deliberation, it still has not finalised a law to protect the rights of PLHIV. Section 52 of the Penal Code criminalises the non-disclosure of HIV status, which may disproportionately impact upon women. Women's equality rights, harmful gender norms and GBV are key human rights issues. Despite recent protections in statutory law, with dual legal systems applying, women in Lesotho are still not accorded equality in law and with regards to property and inheritance rights. Sex between men is criminalised as part of the common law offence of sodomy and there are high levels of stigma and discrimination against LGBT populations.</p>

Country	Status: HIV, Law, Human Rights and Opportunities
	<p>As a member of SADC, Lesotho would benefit from a review of laws, policies and strategies to strengthen rights-based protection in the context of HIV. A recently finalised LEA has identified key issues of concern, providing an opportune time to build on the findings and to move towards concrete actions for strengthening law and policy to protect equality rights for PLHIV, women and girls and LGBT populations as well as to strengthen access to justice and law enforcement.</p>
9. Mozambique	<p>Mozambique is a member of SADC. During Phase 1 of the project, Mozambique reviewed its two HIV-related laws, the Law 02/2005 focusing on HIV in the workplace, and the Law 12/2009 against stigma and discrimination of people living with HIV and AIDS, to consolidate the provisions, provide protection for vulnerable and key populations and remove provisions criminalising HIV transmission. Ambiguous articles within the Penal Code requiring ‘security measures’ for those committing ‘vices against nature’ may be applied against LGBT populations and are a cause for concern.</p> <p>Given the review of the HIV law, it is an important time for ongoing support to Mozambique to provide focussed support for follow up action planning to ensure awareness raising, capacity building, implementation and enforcement of rights based HIV laws as well as to encourage learning and sharing with other countries in the region.</p>
10. Namibia	<p>Namibia is a member of SADC and does not have specific HIV legislation although it has a strong commitment to human rights within the Constitution, national laws (e.g. labour laws) and examples of successful HIV-related litigation (for pre-employment testing in the armed forces and more recently, for the coerced sterilization of women with HIV). Travel restrictions on people living with HIV were recently repealed. Namibia has also enacted a number of laws to protect women’s equality rights and to prohibit violence (including marital rape), although customary laws and practices still impact negatively on women who experience various forms of gender inequality, harmful gender norms (e.g. initiation ceremonies, early marriages and widow inheritance) and GBV. Namibia criminalises same sex relationships and sexual minorities are highly stigmatised. Access to justice for key populations is a concern, according to ARASA (2014).</p> <p>An LEA has been conducted in Namibia, highlighting key issues for law review and reform; this provides an opportunity for follow up work to develop a concrete action plan for law and policy reform and strengthened access to justice and law enforcement for women, girls and LGBT populations in the context of HIV.</p>
11. South Africa	<p>South Africa is a member of SADC, it does not have an HIV specific law, but does include protection for the rights of PLHIV in anti-discrimination law (the Equality Act) and in Employment Law (the Employment Equity Act). Despite a protective legal framework, harmful gender norms and gender based violence are still issues of critical concern for women and girls. Stigma and discrimination against women with HIV is also reportedly high according to research conducted during Phase 1 of the project, and women and girls are unable to access adequate justice or appropriate law enforcement for rights violations. Similarly, there are high levels of stigma and discrimination against LGBT populations.</p> <p>The recent PLHIV Stigma Index study indicates ongoing high levels of discrimination against people living with HIV with a particular impact on women living with HIV in access to sexual and reproductive health care. Measures to increase access to justice and improve law enforcement in the context of GBV and for LGBT populations have been identified as critical to strengthening rights-based responses to HIV in South Africa.</p>

Country	Status: HIV, Law, Human Rights and Opportunities
12. Swaziland	<p>Swaziland is a member of SADC. A recently concluded LEA found that it does not have a specific protection for the rights of people living with HIV in law and that stigma and discrimination against PLHIV, women, girls and LGBT populations, amongst others remain high. Women face high levels of inequality due to the dual legal system incorporating customary laws, and GBV is a key human rights issues. Same sex sexual relationships are criminalised in law, creating stigma and discrimination and impacting on access to health care for LGBT.</p> <p>Having just concluded its LEA, it is an important time to follow up the findings and recommendations in Swaziland with focussed support for collective capacity building between government and civil society as well as advocacy and action planning to strengthen law and policy, access to justice and law enforcement as per the findings of the LEA.</p>

8. References

- ¹ UNAIDS 2013. Getting to Zero. HIV in Eastern and Southern Africa. Regional Report. Accessed at: <http://www.zero-hiv.org/wp-content/uploads/2013/08/Getting-to-Zero-2013.pdf>
- ² Including Botswana, Ethiopia, Kenya, Namibia, Rwanda, Zambia and Zimbabwe.
- ³ UNAIDS (2014). The Gap Report. Accessed at: http://www.unaids.org/sites/default/files/en/media/unaids/contentassets/documents/unaidspublication/2014/UNAIDS_Gap_report_en.pdf
- ⁴ UNAIDS (2014). The Gap Report. Accessed at: http://www.unaids.org/sites/default/files/en/media/unaids/contentassets/documents/unaidspublication/2014/UNAIDS_Gap_report_en.pdf
- ⁵ UNAIDS 2013. Getting to Zero. HIV in Eastern and Southern Africa. Regional Report. Accessed at: <http://www.zero-hiv.org/wp-content/uploads/2013/08/Getting-to-Zero-2013.pdf>
- ⁶ UNAIDS (2014). The Gap Report. Accessed at: http://www.unaids.org/sites/default/files/en/media/unaids/contentassets/documents/unaidspublication/2014/UNAIDS_Gap_report_en.pdf
- ⁷ *Ibid.*
- ⁸ UNAIDS 2009. "UNAIDS Action Framework: Universal Access for Men who have Sex with Men and Transgender People". Available: http://data.unaids.org/pub/report/2009/jc1720_action_framework_msm_en.pdf (Accessed 22 May, 2015).
- ⁹ ActionAid (2009). "Hate Crimes: The Rise of Corrective Rape in South Africa". Available https://www.actionaid.org.uk/sites/default/files/doc_lib/correctiveraperep_final.pdf. (Accessed 22 May, 2015).
- ¹⁰ Baral S et al (2012). Burden of HIV among female sex workers in low-income and middle-income countries: a systematic review and meta-analysis. *Lancet Infectious Diseases*, 12: 538-49.
- ¹¹ *Ibid.*
- ¹² Shannon, Kate et al. Global epidemiology of HIV among female sex workers: influence of structural determinants. *The Lancet*, Volume 385, Issue 9962, 55 - 71
- ¹³ UNAIDS 2013. Getting to Zero. HIV in Eastern and Southern Africa. Regional Report. Accessed at: <http://www.zero-hiv.org/wp-content/uploads/2013/08/Getting-to-Zero-2013.pdf>
- ¹⁴ ARASA (2014). 2014 HIV and Human Rights in Southern and East Africa Report. Accessed at: <http://www.arasa.info/>
- ¹⁵ UNAIDS 2013. Getting to Zero. HIV in Eastern and Southern Africa. Regional Report. Accessed at: <http://www.zero-hiv.org/wp-content/uploads/2013/08/Getting-to-Zero-2013.pdf>
- ¹⁶ WHO (2011). Guidelines: prevention and treatment of HIV and other sexually transmitted infections among men who have sex with men and transgender people: recommendations for a public health approach. Geneva: World Health Organisation.
- ¹⁷ Baral SD, Beyrer C, & Poteat T (2011). "Human Rights, the Law, and HIV among Transgender People. Working Paper prepared for the Third Meeting of the Technical Advisory Group of the Global Commission on HIV and the Law, 7-9 July 2011". Available: <http://www.hivlawcommission.org/index.php/working-papers?task=document.viewdoc&id=93>. Accessed on 22 May, 2015.
- ¹⁸ Ref; <http://www.achpr.org/instruments/achpr/>
- ¹⁹ UNGASS, 2011. *Political Declaration on HIV/AIDS*
- ²⁰ *Ibid.*
- ²¹ ACHPR 54th Ordinary Session (2013). Resolution 260: Resolution on Involuntary Sterilisation and the Protection of Human Rights in Access to HIV Services. Available at <http://www.achpr.org/sessions/54th/resolutions/260/> (Accessed 15 May 2015).
- ²² ACHPR 55th Ordinary Session (2014). Resolution 275: Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity. Available at: <http://www.achpr.org/sessions/55th/resolutions/275/> (Accessed 15 May 2015).
- ²³ Global Commission on HIV and the Law, 2012. *Risks, Rights & Health*. Available at www.hivlawcommission.org [Accessed 9 July 2012]. See www.hivlawcommission.org for further information on the Global Commission on HIV and the Law, submissions on HIV and the law made at 7 Regional Dialogues and in particular, the Africa Regional Dialogue on HIV and the Law, 4 August 2011.
- ²⁴ Global Commission on HIV and the Law (2012). *HIV & the Law: Risks, Rights and Health*. Accessed at: www.hivlawcommission.org
- ²⁵ UNDP Regional Support Centre for Africa (2014). A report on progress towards achieving law and human rights goals within the African Union Roadmap on Shared Responsibility and Global Solidarity for AIDS, TB and Malaria Response in Africa (2012-2015).
- ²⁶ UNDP Regional Support Centre for Africa (2014). A report on progress towards achieving law and human rights goals within the UNDP Regional Centre for Africa (2014) A report on progress toward rights goals within the African Union Roadmap on Shared Responsibility and Global Solidarity for AIDS, TB and Malaria Response in Africa (2012-2015).

-
- ²⁷ Including the right to recognition before the law, the right to non-discrimination and equality, the right to privacy, the right to health, and the right to freedom from torture and cruel, inhuman or degrading treatment or punishment. See Open Society Foundations (2014). License to be yourself. Laws and Advocacy for Legal Gender Recognition of Trans People. Accessed at: <http://www.opensocietyfoundations.org/reports/license-be-yourself>
- ²⁸ Open Society Foundations (2013). The Global Commission on HIV and the Law: Transgender People. A Brief for Civil Society. Accessed at: http://www.opensocietyfoundations.org/sites/default/files/HIV-and-the-Law-Transgender-People-20130930_0.pdf
- ²⁹ Stevens M (2012). Transgender access to sexual health services in South Africa: findings from a key informant survey. AmfAR and Gender Dynamix and Kenya Human Rights Commission (2011). The Outlawed Amongst Us. A Study of the LGBTI Community's Search for Equality and Non-Discrimination in Kenya. Nairobi: Kenya Human Rights Commission.
- ³⁰ ARASA (2014) HIV and Human Rights in Southern and East Africa.
- ³¹ UNDP Regional Support Centre for Africa (2014). A report on progress towards achieving law and human rights goals within the African Union Roadmap on Shared Responsibility and Global Solidarity for AIDS, TB and Malaria Response in Africa (2012-2015).
- ³² Ibid. See also Global Commission on HIV and the Law, 2011. *Regional Dialogue Submissions: Africa Regional Dialogue*. Available at www.hivlawcommission.org [Accessed 9 July 2012].
- ³³ Govt. of Norway (2012). Promoting the human rights of LGBT – lesbian, gay, bisexual and transgender people: Guidelines for systematising and strengthening embassy efforts. Available <http://www.globalequality.org/storage/documents/pdf/norwegian%20guidelines%20lgbt.pdf> (Accessed 15 May, 2015).
- ³⁴ UNDP 2014. *Changing with the world: UNDP Strategic Plan 2014-2017*. Available at: <http://www.undp.org/content/undp/en/home/ourperspective/ourperspectivearticles/2014/01/08/undp-strategic-plan-2014-2017-changing-with-the-world.html> (Accessed on 11 May, 2015)
- ³⁵ Ibid.
- ³⁶ For example, Ukraine and Moldova in Eastern Europe have conducted National Dialogues on HIV and the Law with the aim of action planning. Moldova actually conducted a LEA which fed into their National Dialogue and facilitated the development of their national action plan on HIV and law issues.
- ³⁷ See African Union July 2012. *ROADMAP ON SHARED RESPONSIBILITY AND GLOBAL SOLIDARITY FOR AIDS, TB AND MALARIA RESPONSE IN AFRICA*. (http://www.au.int/en/sites/default/files/Shared_Res_Roadmap_Rev_F%5B1%5D.pdf. Accessed 22 Aug. 2012)
- ³⁸ UNDP. *Being LGBT in Asia*. Being LGBT in Asia' is a ground-breaking, first-of-its-kind joint analysis undertaken by UNDP and the United States Agency for International Development (USAID) together with grassroots lesbian, gay, bisexual, and transgender (LGBT) organizations and community leaders to understand the challenges faced by LGBT people in Asia. Available at: <http://www.asia-pacific.undp.org/content/rbap/en/home/operations/projects/overview/being-lgbt-in-asia/>. [Accessed on 24 April, 2015]
- ³⁹ UNDP 2014. *Annual Report 2013-2014: New Partnerships for Development*. Available: <http://annualreport.undp.org/> (Accessed on 11 May, 2015).
- ⁴⁰ UNDP 2013. *UNDP integrated budget estimates for 2014-2017*. P9. Available: <http://www.undp.org/content/dam/undp/library/corporate/Executive%20Board/2013/Second-regular-session/English/dp2013-41e.pdf> (Accessed on 11 May, 2015)
- ⁴¹ MOPAN (2012). *Assessment of Organisational Effectiveness and Reporting on Development Results: United Nations Development Programme*. Available: http://www.mopanonline.org/publications/MOPAN_2012_UNDP_Final_Vol_1_Issued_December_2012_1_1.pdf (Accessed on 11 May, 2015).
- ⁴² <http://www.unaids.org/en/dataanalysis/knowyourresponse/ncpi/2012countries/>