

# United Nations Development Programme In China

## Programme Document

**Project Title:**

**Daytop Scale Up - Piloting an Integrated, National, Grassroots-led Design to Empower Neglected HIV-affected Groups**

***UNDP Global Strategic Plan Outcomes:***

2. Citizen expectations for voice, development, the rule of law and accountability are met by stronger systems of governance.  
7. Development debates and actions at all levels prioritize poverty, inequality and exclusion.

***UNDP Regional Strategic Plan Outcome:***

**Expected OP Outcome(s):**

2.1. Within the focus on poverty eradication, UNDP will address the specific needs of women and marginalized groups, including: indigenous people; ethnic, religious, and sexual minorities; people living with and most affected by HIV; people with disabilities; and migrants.  
2.2. Citizen expectations for voice, development, the rule of law and accountability are met by stronger systems of governance.

***UNDP China CPD Outcome***

1: More people, particularly the vulnerable and disadvantaged, enjoy improved living conditions and increased opportunities for economic, social and cultural development

**Expected Output(s):**

1. CBOs possess sufficient capacity to provide quality HIV related "core" legal services  
2. Program is supported into future through engagement with broader stakeholders

**Implementing Partner:**

CICETE and Daytop

**Responsible Parties:**

*UNDP, CICETE, Daytop Drug Use and Rehabilitation Centre.*

### Brief Description

In combination with other measures to reduce stigma and discrimination, promote community wellbeing and ensure non-discriminatory legislation, HIV-related legal services can guarantee the rights of people living with HIV as well as other key populations (such as sex workers, men who have sex with men and people who use drugs). In fact, legal services are especially suited to contexts such as China where HIV-related key populations (MSM, sex workers and drug users) are legally entitled to many basic legal protections included in a number of national regulations and policies, in particular the 2006 National Regulations on AIDS. However, a climate of high stigma and discrimination, and low overall legal literacy, lead to further vulnerability of these populations to HIV.


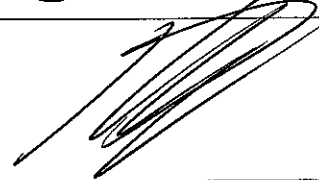
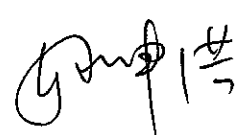
In China, UNDP together with CICETE, has supported Yunnan Daytop Drug Abuse and Rehabilitation Center to manage a community-based legal service program since 2011. This program has accumulated valuable experience in legal outreach and education, mediation and litigation, as well as in all aspects of program management, reporting and advocacy. Despite the well-documented existence of widespread HIV-related discrimination in China, Daytop's program is one of only a handful of community-based programs that directly addresses rights protection for key populations, and it remains unique in terms of its scale, resources and legal expertise. All this while the 'Daytop model' has shown that community organizations are able to reach the populations who need legal literacy and support the most, often acting as a powerful instrument against discrimination at the local level.

This initiative aims to expand legal aid services for key populations by linking Daytop with other Chinese HIV community-based organisations that have a strong interest in empowering their community members through legal services. The initiative will support Daytop as it provides capacity-building to these organisations, and will monitor and guide these organisations as they provide services and build on their own local resources. Once operational, this will result in an integrated, national model of legal service provision for HIV-affected groups. This initiative builds on earlier formative research conducted in China, including a UNAIDS study of HIV-related legal service capacity (2011), and a UNDP study of the feasibility and acceptability of scaling up HIV-related legal services (2014).

Atlas Award ID:	
Start date:	August 2015
End Date	December 2016

AWP budget (Year 1):	USD\$ 50,000 (TRAC)
AWP Budget (Year 2):	To be mobilized outside of TRAC
Total resources required	USD \$50,000 (TRAC)
Total allocated resources:	USD \$50,000 (TRAC)

### Agreed By:

On Behalf of	Signature	Date	Name and Title
DAYTOP		06/09/2015	Yang Maobin, Director
UNDP China		01/08/2015	Patrick Haverman, Country Director A.I
CICETE		2015-8-31	Mr. Yao Shendong, Director General

## **1. Situation Analysis**

### **1.1 Legal services an integral part of national responses to HIV**

Legal services represent one tool in the armoury of social measures that can be used to combat HIV-related discrimination and rights abuses, and that also includes legislative reform, mass education campaigns, and community participation. In comparison with other measures, legal services are notable for producing benefits more quickly (legislative reform often takes years); achieving more direct individual empowerment (the chief beneficiaries of legal services are individual clients, although communities also benefit); being contextually adaptable (legal services are sensitive to local norms in conflict resolution) and promoting evidence-based advocacy (legal services not only amass data, they also require both sides in a dispute to state their case clearly) (IDLO and UNDP 2010).

Within the broader UNAIDS division of labour, UNDP leads on the governance and human rights of national HIV responses, including on strengthening access to justice for the most marginalized. Part of this work focuses on ensuring that those who experience discrimination because of HIV get good, effective access to legal services. With good legal information and advice, those most affected by the epidemic – those living with HIV and AIDS, their loved ones but also most vulnerable populations such as people who use drugs, men who have sex with men and sex workers– have at least some means to deal with threats to their jobs, homes, social security entitlements, physical security, privacy and dignity. (IDLO, UNAIDS and UNDP 2009). Legal services are especially suited to contexts, like in China, where discrimination persists despite the existence of basic legal guarantees and protections for HIV-affected communities, since legal aid programs must operate within the existing legislative framework.

### **1.2 HIV, stigma and discrimination and the legal context in China**

To date, the most comprehensive Chinese legislation to address the relationship between HIV and human rights is the 2006 “Regulations on AIDS Prevention and Treatment”. As Godwin describes, the AIDS regulations guarantee basic PLHIV rights, including the right to healthcare, the right to employment, and the right to marry (Godwin 2013). They also provide a legal basis for implementing condom distribution, methadone maintenance therapy and other sensitive HIV-related measures on a national scale targeting marginalized and often criminalized groups such as drug users and sex workers. Other legislation such as the 2010 State Council “Notice on Further Strengthening the HIV Response”, the 2010 “Employment Promotion Law” and the 2007 “Anti-Drugs Law” provide additional clarifications and guarantees of the rights of PLHIV and key affected populations.

Nevertheless, a number of studies and reports have noted that the Chinese state response to HIV is leaving too many vulnerable people behind. A recent report from UNDP and Renmin University Law School on the legal and policy environment for HIV services in China identified five areas of concern: (i) laws criminalising sex work and drug use that supersede all other HIV administrative regulations (and the need for an overarching HIV law passed by the National People’s Congress); (ii) law enforcement practices that negatively impact HIV services (including using condom possession as proof of sex work); (iii) arbitrary, non-consensual detention and HIV testing of vulnerable groups; (iv) lack of operational definitions of “discrimination” and legal mechanisms for redress; (v) unfavourable conditions for civil society participation in the HIV response. Others have also highlighted the lack of government safeguards for transparency and accountability (Meng 2012).

Social research confirms the existence of high levels of stigma. For example, in its 2009 “China Stigma Index Report” UNAIDS found that, among 2096 people living with HIV that participated in its survey, 47.1% had experienced some form of HIV discrimination since diagnosis, and 12.1% had been refused medical care at least once (UNAIDS and partners 2009). Other studies have corroborated the pervasive influence of stigma (China CDC and International Labour Office for China and Mongolia 2011, China CDC and International Labour Organization 2011, NCAIDS and United Nations Population Fund 2011). For a visual representation of the links between stigma, rights abuses and HIV legislation in China, please refer to the Problem Tree in the appendix.

### **1.3 Existing HIV-related legal service capacity in China**

In 2011, UNAIDS conducted an assessment of the capacity of HIV-related legal service providers in China, later summarised in a workshop report entitled “Strengthening the Response of Legal Service Providers to HIV/AIDS” (UNAIDS China Office 2011). This assessment identified a handful of HIV CBOs that were then

active in legal service provision, as well as some private law firms. Overall, capacity and coverage were extremely low, with many of the provinces worst affected by HIV (e.g. Xinjiang, Sichuan) having no community-based legal service providers on the ground whatsoever.

In 2014, UNDP conducted a follow-up study aiming to assess the acceptability and feasibility of scaling up HIV-related legal services in China (Shallcross 2014). This study identified four major potential sources of legal aid: HIV CBOs, private law firms, government legal aid centres, and university legal aid clinics. Unfortunately, the study found that only HIV CBOs are currently providing reliable HIV-related legal services. Furthermore, the other service providers have barriers that would tend to prevent or deter potential clients from utilising their services. Hence, while the study conceded that, in the long-term the government system is a sounder choice for scale-up owing to its ample resources, it recommended that, in the short-term, HIV community-based organisations should act as the main purveyors of HIV-related legal services in China.

Among the four CBOs that the study identified as having an active legal aid program and some experience of HIV law, Daytop stood out for several reasons. First, it exclusively focuses on HIV and HIV affected populations (whereas two of the CBOs cover a wide range of public interest cases). Second, it has a strong local community base (whereas two of the CBOs do not offer any kind of local community outreach or local legal education). Third, it is relatively well-resourced (it is the only CBO that has a lawyer permanently on its staff, furthermore, this lawyer has been with the program since 2011). Fourth, it is experienced in capacity-building (Daytop has already established a network of collaborating CBOs in the Kunming region). In view of these assets and Daytop's past cooperation with UNDP and CICETE, it is arguably the best partner for a program aiming to improve access to justice for HIV-affected populations in China.

#### ***1.4 Acceptability and feasibility of an HIV-related legal service program in China***

During its 2014 study (Shallcross 2014), UNDP conducted interviews with 13 key informants in China (including donors, legal program administrative staff, lawyers with experience in HIV law, and key affected populations) to assess their views on the acceptability and feasibility of scaling up HIV-related legal service provision in China. The study found that these "core" stakeholders generally favoured participation in a legal program. The main reasons put forward were: (i) awareness of how rights abuses undermine the HIV response, as well as threatening community wellbeing; (ii) awareness of tremendous unmet needs for rights protection among HIV-affected populations; (iii) perception that a legal response could be effective in addressing many (but not all) rights abuses that occur; (iv) awareness of potential synergies between an HIV legal program and other routine HIV prevention work; (v) perception of some opportunities in the broader socio-political context e.g. the recent government emphasis on "rule of law".

Furthermore, the study participants independently agreed on a suitable mechanism for an HIV legal service program: (i) at the lowest level, community-based organisations could provide legal education and community empowerment to their beneficiaries; (ii) at the next level, suitably qualified staff members within the CBO could identify potential clients and provide basic legal information; (iii) finally, at the highest level, if deemed appropriate, the CBO could refer the client to more specialised legal service providers for advice, including, potentially, mediation and litigation assistance. All participants considered this model to be the most feasible in current circumstances, and also the most effective in answering community needs.

Following the completion of the study, UNDP hosted a series of meetings to discuss the legal program during 19-23 January 2015, including, notably, a broad stakeholder consultation on 21 January. Through these meetings, UNDP confirmed program funding; identified parties with a strong interest in the program; refined the program's principles, objectives, core activities and timeline; established working relationships between key partners; and promoted participation and consensus.

## **2. Strategy and Program Planning**

### ***2.1 Proposed Strategy***

HIV-affected populations in China remain stigmatised owing to ignorance about HIV, traditional discourses about morality, and the illegality of some of the practises associated with HIV transmission e.g. injecting drugs or selling sex. Although the law in theory guarantees many of the basic rights of key affected populations, the stigmatising social context enables discrimination to occur with relative impunity; moreover, internalised stigma prevents victims from taking vigorous steps to defend their rights. Low legal literacy and distrust towards the legal system further exacerbate these tendencies. For the sake of a more effective HIV response, as well as a more equal society, there is an urgent need to address the stigmatisation of HIV-affected groups, and legal services are an effective way to do this.

Although China does boast a state-run legal aid system, being HIV positive does not automatically qualify you for state assistance, nor is this likely to change in the short to medium term. Hence, there are significant barriers to PLHIV and other key affected populations who wish to access state legal aid. The same is also true of private law firms, which, for the most part, share the prejudices of the broader social context, and are therefore reluctant to get involved with people living with HIV or HIV-affected groups, except if clients approach them and are willing to pay full legal fees. Stigmatised and often indigent individuals such as PLHIV, people who use drugs and sex workers are unlikely to meet these conditions.

Hence, to strengthen rights protection of HIV-affected populations in China, HIV CBOs need to be actively engaged in legal service provision. Based on the formative research, it seems that the most effective and acceptable service model is a three-tiered one, whereby, at the lowest level CBOs educate community members about their rights; then, at the second level, trained staff members identify the occurrence of individual rights abuses and motivate potential clients to take appropriate legal action; and then, finally, for complex cases, trained staff members refer clients to professional sources of legal support outside the CBO. This corresponds to a grassroots approach to HIV discrimination, where those most affected by HIV will be at the vanguard of a legal response – driving the work, building local capacity, and documenting abuses - it therefore furthers the direct empowerment of marginalised communities. Although legal work does not currently form an integral part of what HIV CBOs do, the formative research carried out since 2014 nevertheless indicates that some CBOs have the potential and the interest to take on such a role.

Presently, HIV-related legal resources and expertise are concentrated in Daytop, and, to a lesser degree, a handful of other CBOs with small active legal programs. The idea is that through capacity-building, Daytop can support a small number other HIV CBOs in China to acquire competencies in legal service provision, thereby sharing its knowledge, and expanding the coverage of legal aid services. Networking and peer-based learning between participating CBOs will help to accelerate their skills acquisition and enhance service quality. Once the program is mature, scaled-up service provision will lead to broader documentation of legal cases, yielding important source materials for coordinated advocacy. Collectively, these efforts will produce more resilient HIV-affected communities, thereby reducing their vulnerability to HIV, and, in combination with other measures, stemming the spread of the disease.

The UNDP Country Office and CICETE will cooperate closely with Daytop as it develops capacity-building plans and activities for the HIV CBOs participating in this program, and will also support HIV CBOs as they begin to implement their own legal services at the local level. This is consistent with UNDP's new strategic plan, which emphasises the need to ensure that development debates and actions at all levels prioritise poverty, inequality and exclusion. As such, this initiative will be part of the broader Poverty, Equity and Governance workplan of UNDP China, and its efforts to eliminate all forms of inequality and strengthen the welfare of marginalised and vulnerable groups in China.

While this programme document only covers a period of around 18 months, UNDP envisages this initiative as requiring several years to reach maturity. For 2015, the key outcome is to demonstrate that the initial cohort of participating HIV CBOs have achieved legal service capacity, and that they are providing a consistent, high-quality service. This is stated in the log-frame as ensuring that "CBOs in the program are able to provide acceptable, effective, on-going legal services to key affected populations in the geographical areas they cover." This outcome has been sub-divided into core outputs:

- i. CBOs possess sufficient capacity to provide quality HIV-related "core" legal services (including community-based legal education, legal information, and professional referral)
- ii. Program is supported into the future through engagement with broader stakeholders

At the end of 2015, there will be an evaluation meeting that will lay the foundation for setting program objectives for 2016 which will be decided in January 2016 by the participating organizations. However, looking ahead, it is likely that the focus of the program in 2016 will be to support continued coverage in the project sites, so that more people can benefit from services. Advocacy is an important complementary strategy since by the end of 2016, the program will have been operational for over one year, and will already have accumulated valuable case-studies and program data.

## **2.2 Proposed Principles**

Since it began providing legal services to HIV-affected clients in 2011, Daytop has evolved principles that underpin its work. These principles have informed the design of this initiative, and participating CBOs will be expected to accept and apply them. The principles are as follows:

- i. Maximisation of client interests: legal services should help clients, in an objective manner, to analyse and evaluate the pros and cons of different legal strategies for protecting their rights, so that the client is

empowered to make well-informed decisions. In other words, the priority is client service rather than advocacy.

- ii. Conformance with Chinese law (including local law): the legal service and any legal recommendations should be consistent with current Chinese law; furthermore, the service should pay attention to rights boundaries, insofar as protection of the client's rights should not lead to the infringement of others' legal rights
- iii. Maximisation of client/community participation: service design and implementation should seek and respond to input from service beneficiaries; the service content and delivery method must also be consistent with beneficiaries' needs and advancement.

Furthermore, consultation with stakeholders in Beijing resulted in a second set of principles relating to the management of this initiative. Participating CBOs will also be expected to accept and apply these:

- i. Sustainability: throughout the duration of the initiative, participating CBOs should continuously improve their capacity to provide legal services, and strive to develop local legal resources, so as to achieve better sustainability
- ii. Autonomy: participating CBOs should design a legal service strategy for their own context, on the basis of their organisation's development needs and those of the community, so that legal services are brought into the organisation's routine work and may be flexibly adjusted according to the changing demands of their community.

One consequence of the latter principle is that the initiative will not enforce a standard service delivery method, even though standard operating procedures and service quality standards will be developed for all participating organizations. However, CBOs will be expected to incorporate legal services into their existing work – whether that takes place largely face-to-face via outreach, over the phone, or via the internet. Similarly, participating CBOs are free to define on what basis they provide services: for example, they may choose to offer services on the basis of population (i.e. all community members will be able to access legal aid regardless of what specific legal problem they have), or on the basis of legal problem (i.e. community members will only be able to access legal aid if their issue relates directly to HIV).

### **2.3 Proposed Components (Outputs and Activities) for 2015**

*Output 1: CBOs possess sufficient capacity to provide quality HIV-related "core" legal services (community-based legal education, legal information, professional referral)*

Rationale: Although Daytop has experience in community-based legal service provision, other HIV CBOs that will take part in this program do not. They will need training in order to understand how the program will work, and what is expected from them; they will need support to be able to provide services competently and reliably; and they will need monitoring to ensure they are complying with the program's principles. Similarly, there need to be processes in place to ensure that Daytop is fulfilling its mandate as a capacity-builder, and that it is meeting the participants' needs.

Baseline: To date, Daytop's program is the only one that UNDP has observed in practice. He'er Butong Centre "Aibo" Public Interest program, another participant in the program, also runs a legal program, however UNDP has not observed it. All the other participating CBOs have never run a legal service program.

Target: All participating CBOs should be providing quality legal services to community members by the end of 2015.

- Activity 1.1: Daytop develops new "Weixin" public account for group to use for information exchange/outreach activities
- Activity 1.2: Daytop creates capacity-building plan for CBOs based on their individual workplans
- Activity 1.3: Daytop develops IEC materials on behalf of CBOs
- Activity 1.4: Daytop develops (with support from experts and UNDP) PINGDENG standard operating procedures as well as other legal aid and HIV resources
- Activity 1.5: CBOs carry out community empowerment and/or legal service outreach among target communities
- Activity 1.6: Daytop supports CBOs in ongoing learning via case-study exchange in Weixin group
- Activity 1.7: External consultant to carry out M&E site visits, and coordinates program-level data collection
- Activity 1.8: External consultant completes evaluation report

*Output 2: Program is supported into the future through engagement with broader stakeholders*

**Rationale:** It will take time for the HIV CBOs to produce a meaningful impact at the local level, and even longer for this program to have any kind of larger effect at the national level, for example, through coordinated advocacy. Hence, this program needs sustained financial support beyond 2015. At the same time, to promote sustainability, it's important that the CBOs are active at the local level in building relationships with lawyers, and disseminating HIV-related legal knowledge, as this will help to lower long-term costs, and increase the program's impact.

**Baseline:** To date, there is only guaranteed funding for 2015; it is also unclear how many participating CBOs are willing to commit to providing legal services into the long-term.

**Target:** All participating CBOs should intend to, and have the capacity to, continue strengthening "core" legal services into 2016. Hence, by the end of 2015, they should have funding and other resources in place.

- Activity 2.1: Daytop provides capacity building of other CBOs, including by organising events to publicise HIV-related legal services to local lawyers and other stakeholders
- Activity 2.2: UNDP coordinates high-level advocacy event to publicise program as well as a separate M&E meeting at the end of the year.
- Activity 2.3: Daytop programme management: Daytop supports the implementation of the overall capacity building plan, oversees the work of one UNV based in Daytop (Wang Shengnan) to manage the programme and coordinate the activities of other CBOs.

### 3. Program Management

UNDP is responsible for the overall achievements of programme outcomes through enhancing effectiveness of programme management, monitoring the programme's progress and intended results, and coordinating its evaluation. UNDP will ensure the introduction of the most suitable international practices on HIV-related legal resources, capacity building, liaison with the private sector and NGOs, as well as public information dissemination etc.

China International Center for Economic and Technical Exchanges (CICETE) is responsible for ensuring programme implementation, is in compliance with UNDP rules and regulations. It is responsible for programme delivery, assumes responsibilities specified in the National Execution Manual, and ensures that programme outputs are produced according to programme objectives and related work plans.

Yunnan Daytop Drug Abuse and Rehabilitation Center (Daytop) is the cooperating partner. Through Daytop, key CBOs and PLWHIVs will be involved in the project activities. Daytop will be responsible for all activities under the project.

The core management team comprises three permanent staff members: a UNDP program manager (Andrea Pastorelli, UNDP) and CICETE Programme Manager (Zhang Jing); a program coordinator (Chen Hailong, Daytop); and a program assistant (Wang Shengnan, UNV based in Daytop). As program manager, Andrea Pastorelli is responsible for mobilising resources for the program; overall financial management (including disbursement of funds to CBOs); advocacy with national/provincial-level authorities; and recruitment of national-consultants. He also needs to sign-off on all the major program outputs, as indicated in the log-frame, for example, the evaluation report, Daytop's overall capacity building plan etc. As Programme Manager for CICETE, Zhang Jing is responsible on the oversight and management of the AWP and all activities.

As program coordinator, Chen Hailong is responsible for reviewing CBO workplans and capacity-building needs; designing, implementing and monitoring capacity-building activities; producing IEC materials to meet CBO needs; and recruiting local consultants. He also has overall responsibility for all activities that Daytop undertakes at the local level as a participating CBO in this program, for example, outreach with local lawyers, on-site inspection by the evaluator. Chen Hailong needs to sign off on all program outputs directly relating to capacity-building, for example, final CBO workplans.

As program assistant, Wang Shengnan is responsible for day-to-day communication with participating CBOs, including monitoring their completion of activities according to the log-frame; reviewing their research reports and providing feedback; ensuring participation in the Weixin discussion group etc. She needs to sign off on all program outputs relating to timely CBO participation, for example, completion of draft research reports. Wang Shengnan is also responsible for translating routine documents between English and Chinese, and ensuring smooth communication between Andrea Pastorelli and Chen Hailong.

In addition to the core management team, the program will also draw on professional lawyers in Kunming and elsewhere, both for CBO face-to-face training, and for distance learning and support. Lawyer Huang

Xiang will be the program's primary legal expert, but it is likely that Zhu Suming, Liu Wei, and other lawyers will also play a role, and will require remuneration for their time.

Finally, the program will require a consultant to assist UNDP in the overall management of this program, particularly in the early stages (March-April 2015), and for the M&E later in the year (November-December 2015). Specifically, the consultant will need to complete the following tasks: (i) desk-based review of legal aid resources; (ii) reviewing CBO reports to ensure quality, and offering feedback for re-writes; (iii) supporting Daytop in drafting of overall capacity-building plan; (iv) planning and implementing on-site M&E visits, including focus group discussions etc.; (v) data analysis and drafting of evaluation report; (vi) potential participation in core stakeholder evaluation meeting.