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Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover

Addendum

Mission to Vietnam: comments by the State on the report of the Special Rapporteur*

*Reproduced as received.

1. The Government of Viet Nam wishes to thank the Special Rapporteur for his visit from 24 November to 5 December 2011. The visit was an excellent opportunity for the Special Rapporteur and Vietnamese relevant agencies to conduct an open, candid and constructive dialogue, and for the Special Rapporteur to learn first hand the actual situation on the ground, including the achievements made and challenges faced by Viet Nam in its endeavours to best ensure the right to health for all.

2. The Government of Viet Nam made every effort to facilitate the visit, including exercising flexibility and making necessary arrangements to accommodate changes to the initially agreed plan. Viet Nam is pleased to note that the Special Rapporteur had fruitful exchanges during his visit. The sincere and open discussion reflects Viet Nam's openness and enthusiasm in learning from international expertise, experience and best practices to further improve its healthcare system.

3. Viet Nam recognises the efforts by the Special Rapporteur to produce a focused report. While it may be advisable to do so, given the limited duration of the visit and the subsequent limited information obtained, Viet Nam is of the view that the solution to a problem needs a comprehensive approach effectively addressing a wide range of issues. Therefore, Viet Nam is prepared to continue the dialogue and cooperation with the Special Rapporteur.

4. The Government of Viet Nam appreciates the Special Rapporteur's recognition of Viet Nam's efforts in ensuring the right to health for all Vietnamese people, including the Government's strong commitment, marked improvements and advances in many key areas, and the overall progress in achieving the MDGs. It is commendable that the Special Rapporteur provided the sources of much of his information.

5. Viet Nam is of the view that the report should focus on the information learned during the visit. The information obtained outside the framework of the visit is of less relevance.

6. The Government of Viet Nam wishes to thank the Special Rapporteur for sharing his draft report for comments. Viet Nam has provided its comments and suggestions for improvement in terms of accuracy, updates, truthful and balanced reflection of different opinions.

7. However, unlike the practice of other Special Rapporteurs after their visits, Viet Nam has yet to be informed of the final report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on his visit to Viet Nam. In Viet Nam's view, it could have been much more appreciated had the communications and cooperation been better. Therefore, Viet Nam wishes to reiterate its comments on the draft report and requests that this document be circulated as an official document of the UN and annexed to the Special Rapporteur's report.

8. As such, the contexts and numbers of relevant parts in this document reflect those of the draft report and are not necessarily identical with the final version.

Paragraph 9

9. *Revise as follows*: "The 1992 Constitution of Viet Nam (revised in ~~2002~~ **2001**)…"

Paragraphs 15 &16

10. "Experience from other countries….preventative services." and "Privatization and decentralization….such as primary care."

11. These two paragraphs contain assumptions of general nature based on the experience of other countries, without providing established evidence in relation to Viet Nam nor

stating whether there are interventions by the Government to address the problem. Therefore, these paragraphs should maintain their focus on the general trend.

12. *Revise the 3rd sentence of para 15 as follows*: "Increased costs may **theoretically** further limit access for the poor and near poor…*" and the 1st sentence of para 16*: "Privatization and decentralization in ~~Viet Nam~~ **general**…"

Paragraph 19

13. *Replace the 3rd sentence "As currently implemented, SHI is divided into two major categories: compulsory health insurance and voluntary health insurance" with the following*, based on updated information from the Ministry of Health of Viet Nam: **"The current health insurance regime, implemented in accordance with to the Law on Health Insurance (adopted by the National Assembly in 2008 and entered into force on 1st July 2009), comprises of two types - compulsory and voluntary health insurances."**

14. *Revise the end of 2nd last sentence*: "while those covered under HIP **are supported by the State with 100% premium** and children do not pay any premium at all"

Paragraph 20

15. *Revise the 3rd sentence* to reflect an update: "standing at ~~slightly above 55~~ **60** per cent".

16. *Delete the 2nd last sentence* ("Even when referrals are made… procedures necessary to obtain reimbursement") because in reality, it is obligatory for all health facilities to serve patients when they come with a referral letter and those facilities must bear responsibility before the law for failing to do so.

Paragraph 21

17. *Remove the last two sentences* ("However, implementation of this program …enrolled in this program").

18. *Rationale*: According to the Department on Health Insurance of the Ministry of Health, nearly one million children under six (or 12% of all children under six) have not yet received their Insurance Cards. However, those children still fully enjoy all their insurance benefits when they come to healthcare facilities, even without an insurance card since according to the Joint Circular 09/2009/TTLT-BYT-BTC on 14th August 2009, under-six children may use their Birth Certificates instead of their insurance cards to receive all their insurance benefits.

Paragraph 22

19. It is proposed that evidence or supporting information be provided to support the statement in the last two sentences: *"These patients may thus…while insured patients may be forced to seek treatment elsewhere"*. Otherwise, this part should be removed.

Paragraph 25

20. *Update the 3rd sentence by replacing* "During the mission, the Special Rapporteur was informed that the Government was considering an increase in the level of reimbursement for basic health services for the near poor from 50 to 70 per cent*…"* with **"The Government has decided to increase the level of reimbursement for basic health services for the near poor from 50 to 70 per cent since 2012…"**

Paragraph 29

21. Regarding the price of medicines in Viet Nam, the report used the figures calculated by author Anh Tuan Nguyen et al. according to the methodology developed by the World Health Organization (WHO) and Health Action International (HAI) and the survey was carried out in 2004-2005. According to this methodology, the comparison of the medicine prices uses the International Reference Price – IRP, which does not represent the average global price for a medicine, but an external standard to make drug-drug comparisons. These comparisons are reflected in the ratio of a medicine's median price across outlet to a median reference price (IRP). This ratio is called the Median Price Ratios (MPR) for each medicine type in each sector. According to some surveys, the MPR for Ciprobay (Ciprofloxacin) in Thailand, Indonesia and Malaysia is 72.64, 90.08 and 111.63 respectively. It does not mean that the prices of this medicine in those countries are from 72 to 111 times higher than the average price of Ciprobay in the world. Thus it is important to look at MPR across a basket of countries to conclude whether a medicine price is reasonable or expensive, since the absolute ratio per se does not reflect the comparison.

22. According to Table 3 of this survey, the private patient prices for the lowest-priced generic equivalents (LPGs) in Viet Nam is 6.09, while that of West Pacific Region (WPR) countries is 11.25. Private patient prices for innovator brands (IBs) is 31.75 compared to 34.21 of WPR countries. Therefore, it is clear that Viet Nam's MPR is lower than that of WPR countries at the time of the survey.

23. On the other hand, the study by Anh Tuan Nguyen et al. was outdated because it was conducted in 2004-2005 before the Joint Circular No 11/2007/TTLT-BYT-BTC-BCT came into effect. This Joint Circular controls the wholesale mark-ups in the medicine supply through the declaration of a reasonable wholesale price to the Ministry of Health and thus has helped limit inappropriate increases in medicine prices.

24. Therefore, it is proposed that the statement "Prices for medicines in Viet Nam are substantially higher than in other countries that are similarly economically situated, and in many instances even higher than similar medicines in high-income countries" be *removed or reworded* as **"prices for some medicines in Viet Nam might be higher than in some other regional countries"**.

Paragraph 30

25. *Remove the 3rd sentence* ("Soon after, medicines prices… became increasingly unaffordable for most people").

26. *Rationale*: Based on the study cited in the Report, "medicines were unaffordable for the lowest paid unskilled government worker, thus being unaffordable for the large percentage of the population who earn less than this benchmark" (Anh Tuan Nguyen et al., *Southern Med Review,* vol. 2, issue 2 (2009), page 6) and this alone is not sufficient to conclude that medicine prices "became increasingly unaffordable for most people".

27. Please note that Decree 120 was superseded by other acts, including Decree No. 79/2006/NĐ-CP of 2006.

Paragraph 32

28. *Correct the name* of the document in the 3rd sentence by replacing "Decree 11" with **"Joint Circular No 11/2007/TTLT-BYT-BTC-BCT"**.

Paragraph 42

29. *Correct footnote 62*: "Ministry of Health, Viet Nam HIV/AIDS Estimates and Projections 2007-~~2011~~**2012**, (2008)."

30. According to the latest statistics, HIV prevalence is ***0.47 per cent*** for people aged 15 to 49. The number of PLHIV in Viet Nam is ***244,656*** as of 30th September 2011.

Paragraph 43

31. *Delete the 3rd sentence* ("Stigmatization and discrimination…groups."), since (i) there is no "criminalization of the activities of these groups" per se; (ii) the causal relation between "criminalization" and "stigmatization" as stated has not been established.

32. *Delete the 4th sentence* ("Stigma contributes…discrimination.").

33. *Rationale*: In 2011, the HIV/AIDS Prevention and Control Department of the Ministry of Health collaborated with the U.S. President's Emergency Plan for AIDS Relief (PEPFAR) in Viet Nam to carry out a study on the barriers for PLHIV to access to healthcare services, which includes interviews with PLHIV. None of the interviewees said that the fear of sanctions deterred them from accessing HIV/AIDS health services.

Paragraph 44

34. *Correct the 1st sentence*: "International donors provide ~~between 80 and 90~~ **about 70** per cent of all HIV/AIDS funding in Viet Nam", to reflect the statistics provided by the HIV/AIDS Prevention and Control Department, Ministry of Health. (the footnote can be deleted)

Paragraph 45

35. *Delete the 3rd sentence* ("Under the Law on Social Evils… administrative penalties"), since there is no law called "the Law on Social Evils.

36. *Delete the bracketed text* "(administrative detention centres)" in the 4th sentence, since there is no such definition.

37. *Revise the 4th sentence* (*"PWUD and FSWs can be compulsorily… in the case of PWUD")* as follows: **"PWUD and FSWs can be referred to rehabilitation centres for compulsory treatment if they are dependent on drugs as defined under Articles 28-29 of the Law on Drug Control and Prevention and have been through rehabilitation but still relapsed."**

38. *Rationale*: Not everyone who uses drugs is obligated to participate in mandatory rehabilitation programmes, only those dependent on drugs as defined under Articles 28-29 of the Law on Drug Control and Prevention and who have been through rehabilitation but still relapsed. The identification of such people is carried out according to the Guide designed by the Ministry of Health, which is based on WHO Guideline.

39. *Delete the 6th sentence* ("Deprivations…"), since the assertion "indistinguishable from crimination detention" cannot be substantiated.

Paragraph 46

40. *Revise the 1st sentence* ("The Department of Social Evils Prevention…") as follows: "The Department for Social Evils Prevention in the Ministry of Labour, Invalids and Social Affairs (MOLISA) **is in charge of the state management over** ~~operates~~ rehabilitation centres~~, including the provision of health~~."

41. *Rationale*: According to the Department for Social Evils Prevention of MOLISA, the Department does not operate rehabilitation centres, which are put under the People's Committees of the Provinces/Cities. According to Article 39 of the amended Law on Drug Control and Prevention, the Department for Social Evils Prevention is in charge of the overall state management over those centres with the responsibility, among others, to

"coordinate relevant agencies and local authorities to design and guide the activities of rehabilitation centres."

Paragraph 47 and others

42. *Use the word* "**participants**" instead of *"detainees"* throughout the report.

43. *Rationale*: Compulsory rehabilitation is not administrative detention as it does not have any major features of detention. The participants in those rehabilitation centres do not lose any rights as a lawful citizen. For example, they are not put under strict limitations and they can visit their families. In reality, the fact that participants stay at the centre is aimed at educational purposes, as well as a way to cut off the supply of drugs (for PWUDs) or to provide vocational training and equip them with new skills to find alternative sources of income (for FSWs).

44. *Delete the 2nd last sentence* ("As a part of…private enterprises").

45. *Rationale*: According to the Department for Social Evils Prevention of MOLISA, the learners receive their payment according to the Labour Code. The remaining of their income (after offsetting their living expenses at the centres) is sent to their accounts at the centres. They can use this money for their personal spending, send to their family or save until they leave the centres.

Paragraph 48

46. *Delete the 2nd sentence* ("According to some… release") as it is quoted from a report of Human Rights Watch, which we considered as groundless. (See the statement of the Spokesperson on 9 September 2011: http://www.mofa.gov.vn/en/tt_baochi/pbnfn/ns110910120710). Citing such document is not relevant to the result of the visit.

47. *Delete or provide facts supporting the last sentence* ("Furthermore, … before"), since it is also a document not resulting from the visit.

Paragraph 49

48. *Delete the 1st sentence* "Compulsory detention… FSWs"

49. *Rationale*: According to the Ordinance on the Handling of Administrative Violations, the decision to refer a person to compulsory rehabilitation is made by the Chairman of the District of the person's residence based on the proposal of an Advisory Committee comprising of four members. The person concerned has a right to file a petition or a case to administrative courts against this decision.

Paragraph 51

50. *Correct the number in the last sentence* "Although HIV prevalence is ~~approximately 50~~ **24.4** per cent…" as according to the latest figure provided by the Department for Social Evils Prevention of MOLISA, by the end of 2009, HIV prevalence in those centres was 24.4%.

Paragraph 52

51. Most of the hospitalized PLHIV are those at terminal stage. Therefore, the sample cited by the Special Rapporteur is not sufficient to conclude that they proportionately represent all PLHIV and that *"those people are dying from unacceptably premature deaths"*. The ones who are still living in the community might have been living with HIV for a long time before they are hospitalized. Furthermore, the report failed to mention that

the one hospital visited was a major regional hospital covering many provinces in the South, thus the number of deaths does not represent that of a regular hospital in a city.

52. With that and the above-mentioned reasons, it is strongly advisable that the part "As a result, those people are dying from unacceptably premature deaths. In one hospital, visited by the Special Rapporteur, there were about five AIDS-related deaths per month. This provides strong evidence that Viet Nam's response to HIV amongst PWUD is not working. It is unlikely that this number of AIDS-related deaths would occur in an environment free of stigmatization, including the threat of detention and non-consensual treatment" *be reworded as*: **"Many of the AIDS-related deaths could have been avoided if PLHIV had accessed health care services earlier and more effective treatments had been provided at rehabilitation centres."**

Paragraph 55

53. *Delete 03 first sentences* ("During the mission, Government officials informed … clinical testing of ORT in Viet Nam is unnecessary") *and update accordingly*.

54. *Rationale*: According to HIV/AIDS Prevention and Control Department, Ministry of Health, the Government has already authorized the Minister of Health to approve the plan to scale-up ORT in Viet Nam. Furthermore, the Government of Viet Nam is considering the issuance of a Decree on ORT to provide a legal framework for the introduction of this method nation-wide.

Paragraph 56

55. *Delete this one-sentence paragraph* "In light of…right to health" for the reasons stated above.

Paragraph 61

56. *Delete (f)* "Ensure all children under six…", since it is already a reality.

Paragraph 63

57. *Delete (b)* "Create an enabling…", since there is no "penalizing"

Paragraph 64

58. *Delete (a)* "Close all…" *or replace with* "Consider alternative forms of treatment, care and support instead of the current rehabilitation centres in compliance with…"