COMMUNITY LEADERSHIP AND ADVOCACY FRAMEWORK AND RESOURCE GUIDE

HIV, Human Rights and Sexual Orientation and Gender Identity in Islands of Southeast Asia
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HIV, Human Rights and Sexual Orientation and Gender Identity in Islands of Southeast Asia
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Brunei Darussalam

Legal and Policy Environment and Current Situation
National Response
National Advocacy

Indonesia

Legal and Policy Environment and Current Situation
National Response
National Advocacy

Malaysia

Legal and Policy Environment and Current Situation
National Response
National Advocacy

Philippines

Legal and Policy Environment and Current Situation
National Response
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Legal and Policy Environment and Current Situation
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Timor-Leste

Legal and Policy Environment and Current Situation
National Response
National Advocacy

Bibliography
I gladly welcome the Community Leadership and Advocacy Framework and Resource Guide-HIV: Human Rights and Sexual Orientation and Gender Identity in Islands of Southeast Asia by the Insular Southeast Asian Network on MSM, TG, and HIV (ISEAN).

This Framework and Resource Guide is of utmost importance and relevance, especially regarding the high rate of HIV cases in Asia-Pacific is prevalent amongst the most vulnerable of groups: the MSM and transgender. The stigmatization and marginalization against these people is a common problem in the current society; while the state is thus far proven incapable of realizing the recognition and protection for the MSM and transgender groups.

As they are some of the most vulnerable groups, the advocacy for the human rights specific for MSM and transgender groups in the region must be expanded, fortified and supported. Thus far, it seems to me that the agenda of advocacy for the MSM and transgender, especially regarding the access to information and HIV related health services, is not as massively organized compared to other vulnerable groups.

It is thus that the framework will be a most powerful ASEAN contribution towards empowering the advocacy effort for the human rights of the MSM and transgender groups, both in national and regional level. Moreover, this framework would be instrumental in strengthening the relation between MSM and transgender communities in ASEAN countries: Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore, and Timor Leste, by providing the needed information and services in order to improve their health.

We are hopeful that the framework will be instrumental for guiding the advocacy strategy for the Human Rights group in general, and more specifically for the MSM and transgender groups, to improve their effectiveness and coordination in facing the challenges against their human rights. May the guideline serve the civil society in the region and help them share and acquire “lesson learned” in overcoming the challenges regarding the access to information and health services for MSM and transgender groups. This is but a small step in our effort to contribute towards the development of protection and services for the MSM and transgender groups.

Even within ASEAN, the protection for MSM and transgender groups concerning the fulfillment and access to health services is regarded as one of the biggest and most sensitive issues. At the regional level, the ASEAN Community 2015 in the near horizon, the scope and challenges regarding the guarantee and protection of MSM and transgender groups’ human rights will be even greater.

The ASEAN Declaration of Human Rights (AHRD), adopted and signed by the Head of States of the ASEAN Nations in November 2012 is abundantly clear in guaranteeing the rights of the vulnerable groups, including the LGBTs; as provided in the Article 4: “The rights of women, children, the elderly, persons with disabilities, migrant workers, and vulnerable and marginalised groups are an inalienable, integral and indivisible part of human rights and fundamental freedoms.” AHRD also specifically stated the commitments of the ASEAN Nations to provide health service and support for People with HIV/AIDS. The Point 2 of the Article 29 of AHRD provides: “The ASEAN Member States shall create a positive environment in overcoming stigma, silence, denial and discrimination in the prevention, treatment, care and support of people suffering from communicable diseases, including HIV/AIDS.” The ASEAN human rights mechanism (institutional and instrumental) is oriented towards the advancement of human rights in the ASEAN region; however, considering the current political and cultural obstacles, the fulfillment of the said orientation is a great challenge. Are we up to the task?

In order to advance the implementation of AHRD, the framework and guideline are a great step forward and initiative; which in turn will help AICHR to fulfill its mandate especially in
formulating the strategy of development and human rights protection for the vulnerable groups including MSM and transgender. Other than the CSOs, I believe that this framework will also be instrumental for our other stakeholders: the government and private sectors.

Once again let me praise the Insular Southeast Asian Network on MSM, TG, and HIV (ISEAN) and all the partners for the finished framework; which I believe will be welcomed by all the stakeholders in Human Rights.

Rafendi Djamin
Indonesian Representative to the (AICHR) ASEAN Intergovernmental Commission on Human Rights
ACKNOWLEDGEMENTS

The development of the Islands of Southeast Asia Network on Male and Transgender Sexual Health (ISEAN) Community Leadership and Advocacy Framework was a result of an in-depth review and consultative process. The Framework outlines global and regional commitment related to HIV, human rights and sexual orientation and gender identity, and provides evidence for effective inclusion of specific men who have sex with men and transgender people strategies in regional, national and community-level HIV responses.

Our thanks and special gratitude to the Mohamad Shahrani bin Mohamad Tamrin, the ISEAN Regional Program Manager for his leadership and guidance during the development of the Framework; and Mr. Rafendi Djamin, the Indonesian Representative to the (AICHR) ASEAN Intergovernmental Commission on Human Rights for providing the Forward.

The Framework was prepared by Lou McCallum and Amber McQugh, AIDS Project Management Group (APMG) with Edmund Settle, Policy Advisor, UNDP Asia-Pacific Regional Centre.

Many people were involved in the review of the Framework. The authors would like to gratefully acknowledge the excellent guidance and contributions from the following participants of the ISEAN Advocacy Workshop on 25-26 May 2013 in Bail, Indonesia and the ISEAN Board Meeting on 26-29 March 2014 in Penang, Malaysia.

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The development of ISEAN Community Leadership and Advocacy Framework was supported by UNDP under the Multi-Country ISEAN-Hivos Global Fund Programme (ME1–011-G01-H).
Advocacy Framework

INTRODUCTION

Despite persistent warning signals over the last ten years that rates of HIV are disproportionately high among men who have sex with men (MSM) and transgender people in Asia and the Pacific, compared with general population, little has been achieved in reality to connect MSM and transgender people with the knowledge and services they need to either avoid HIV infection, or if living with HIV, to know and understand their HIV status and access life-prolonging anti-retroviral therapies and on-going support.

This Sub-Regional Advocacy Framework has been developed by the Islands of Southeast Asia Network on Male and Transgender Sexual Health (ISEAN) to support sub-regional and country-level advocacy efforts to better connect MSM and transgender people in ISEAN countries with the information and services they need in order to maximise their health. ISEAN countries include Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Timor-Leste.

It complements ISEAN’s previous work on advocacy, particularly the Training Module for Networking and Advocacy for Local CBOs, the B-Change Connecting the Dots: Blueprint of a Regional Technology Strategy for Development and the PlaySafe Initiative.

BACKGROUND

It is ISEAN’s view that it is inaccurate and often unhelpful to consider MSM and transgender people as a homogenous group. The health needs of transgender people, the barriers that exist for them in relation to access to health services and the way that the HIV epidemic impacts upon them, are significantly more difficult and complex for transgender people than they are for some sub-populations of MSM.

Wherever possible throughout this Framework, data and information about transgender people will be presented separately to allow for a more considered and relevant discussion of their advocacy priorities.

Rates of HIV among MSM and transgender people in many countries across the globe are significantly higher than rates among adults in general. By the end of 2011, 93 out of 196 countries had not reported on HIV prevalence among MSM and transgender people in the previous five years. Where data was reported, HIV prevalence among MSM and transgender people was substantially higher than the general population in every context.1 In order to achieve control of HIV worldwide, it is essential that new and effective HIV prevention, treatment and care approaches are developed and implemented at scale for MSM and transgender people.

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1 Chris Beyrer, Stefan Baral, Frits van Griensven, Steven Goodreau, Suwat Charuylertsak, Andrea Wirtz, Ron Brookmeyer, Global epidemiology of HIV infection in men who have sex with men, Lancet July 2012
This is not achievable if these populations are excluded from health care and denied full social recognition and political engagement, as they are in many parts of the world.2

**Men who have sex with men (MSM)**

Sex between men is criminalised in 19 out of 48 countries in the Asia Pacific region and few countries have passed protective laws based on sexual orientation and gender identity or transgender status. MSM in the region experience high levels of stigma and discrimination in relation to sexual orientation, actual or perceived HIV status, current or past drug taking behaviour and involvement in sex work. Stigma and discrimination is a key barrier to access to health services, education, employment and a fair justice system. There is a misalignment on this issue between health and law enforcement sectors in the region, while criminalization of sex between men is common, many countries have identified the rights and needs of key populations through health sector responses. Twenty-two national HIV and health policies across the region have identified MSM as a most-at-risk population, with four countries developing specific strategies or action plans on MSM and HIV.3

**MSM HIV data from the region:**4

<table>
<thead>
<tr>
<th>Country/city</th>
<th>Data</th>
<th>Comparison</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kuala Lumpur</td>
<td>HIV prevalence among MSM 1.4%</td>
<td>HIV prevalence among general population 0.4%</td>
<td>2011</td>
</tr>
<tr>
<td>Philippines</td>
<td>HIV prevalence among MSM 1.7%</td>
<td>HIV prevalence among general population 0.1%</td>
<td>2011</td>
</tr>
<tr>
<td>Jakarta</td>
<td>HIV prevalence among MSM 8.5%</td>
<td>HIV prevalence among general population 0.3%</td>
<td>2011</td>
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</tbody>
</table>

MSM in Islands of Southeast Asia are at significantly greater risk of HIV than the general population. The HIV prevalence among MSM is 28.6 times higher than the general population in Jakarta and 16.8 times higher than the general population in the Philippines. Sex between men in Indonesia and the Philippines is legal, except in provinces or districts that have Sharia-based ordinances. Sex between men is illegal in Brunei Darussalam, Malaysia and Singapore and Muslim MSM are also subject to Sharia law. There are no laws in any of the countries of the sub-region explicitly aimed at protecting MSM, and there are no laws in Brunei Darussalam, Malaysia, or Philippines that allow transgender people to change their sex or gender on official documents. All countries in the sub-region except Brunei Darussalam have identified MSM as a key affected population. The Philippines recently developed specific strategies of action in the National HIV and AIDS Strategic Plan for MSM and TG Populations 2012-2016. MSM are formally and informally organised, and MSM and transgender-led community based organisations (CBOs) conduct a range of HIV-related activities in Indonesia, the Philippines and Singapore. In Malaysia an MSM-led CBO (Pink Triangle Foundation) has provided HIV prevention and care among MSM populations for many years, and has broadened its reach over recent years to sex workers and drug users under a new banner (PT Foundation). There are currently no MSM or transgender

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2 Chris Beyrer, Patrick S Sullivan, Jorge Sanchez, David Dowdy, Dennis Altman, Gift Trapence, Chris Collins, Elly Katabira, Michel Kazatchkine, Michel Sidibe, Kenneth H Mayer, A call to action for comprehensive HIV services for men who have sex with men, Lancet July 2012

3 John Godwin, Legal environments, human rights and HIV responses among men who have sex with men and transgender people in Asia and the Pacific: An agenda for action, UNDP, APCOM, 2010

4 Country Snapshots: HIV and men who have sex with men, UNDP 2012
NGOs or CBOs in Brunei Darussalam, The Brunei Darussalam AIDS Council (BDAC) is the sole non-governmental organization looking at HIV issues in the country. 

Transgender People

“Same same but different: Transgender people are not MSM”

The public health sector adopted the term ‘MSM’ to refer only to biological realities of two people having sex together when both had male sex organs regardless of gender identity or gender orientation. Therefore, trans women—especially pre-operative trans-women—were always counted as MSM. Most research, statistics and surveys of the past few years always counted ‘MSM and TG’ together, and therefore missed opportunities to better inform outreach and other services. Data must now be disaggregated between transgender people and MSM, and also between trans men and trans women.”

The term transgender people refer to individuals whose gender identity differs from their gender at birth. In the Asia-Pacific region available data of population size and HIV prevalence among transgender people is limited with small-scale research focused predominately on trans women (transgender people born as biological men) in urban settings. It can be estimated that there are probably between 9-9.5 million transgender people across the region with HIV prevalence rates as high as 49 percent.

In this region, country-level disaggregated data on HIV among transgender remains scarce, except in Indonesia.

<table>
<thead>
<tr>
<th>Area</th>
<th>Data</th>
<th>Source</th>
</tr>
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<tbody>
<tr>
<td>Jakarta</td>
<td>22% HIV prevalence among transgender sex workers</td>
<td>2004 Anonymous cross-sectional survey⁸</td>
</tr>
<tr>
<td>Indonesia</td>
<td>22% HIV prevalence among Waria</td>
<td>2011 IBBS⁹</td>
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<tr>
<td>Indonesia</td>
<td>26.1% prevalence among transgender women</td>
<td>2013 Meta analysis¹⁰</td>
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Risk factors for HIV among transgender people are varied and complex yet little research has been done in this area. Research has shown that stigma and discrimination against transgender people is prevalent in the region. Stigma and discrimination leads to economic and legal marginalization. Poverty is often a result of economic marginalization where transgender people face discrimination in education settings and when seeking employment. Poverty is a barrier to accessing health services for many transgender people in the region. Discrimination by health service providers can discourage and prevent transgender people from accessing services from affordable public health clinics and hospitals. In addition to experiencing discrimination in health care settings transgender people often find that services are not suited to their needs,

⁵ (Government of Brunei 2012)  
⁷ Sam Winter, Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region, APTN, UNDP, 2012  
⁸ E Pisani, P Girault, M Gultom, N Sukartini, J Kumalawati, S Janzan & E Donegan, HIV, syphilis infection, and sexual practices among transgenders, male sex workers, and other men who have sex with men in Jakarta, Indonesia, Sex Transm Infect, 2004 Dec, 80 (6)  
⁹ IBBS 2011, Ministry of Health, Republic of Indonesia, 2011  
Trans women are likely to not receive women's services and often turned away from MSM services. As a result, trans women are reluctant to seek sexual health services unless experiencing symptomatic sexually transmitted infections (STI). NGOs and CBOs in some locations provide sexual health services for transgender people, however these services are scarce and are often out of reach.\textsuperscript{12}

Poverty, lack of education opportunities and employment discrimination leads to many trans women engaging in sex work due to a lack of opportunity. Where data is available, involvement in sex work has been reported as high as 44 percent among some transgender populations. Transgender sex workers are exposed to unique risks of violence due to their gender identity and report experiencing humiliation and abuse from police and health providers when seeking care following violence. Sex work is illegal in many countries, which exposes transgender sex workers to arrest, detention, debt cycles and police abuse, increasing their risk of HIV.\textsuperscript{13} High rates of receptive anal intercourse among trans women also place them at a greater biological risk of HIV acquisition.

The legal environments in many countries fail to fulfil the human rights of transgender people. Even in countries where same sex practices are legal, transgender people experience stigma and discrimination. Many national legal frameworks contradict international human rights frameworks and treaties. The absence of full legal recognition and protection for transgender people is a major barrier to HIV responses.\textsuperscript{14} In Indonesia, the law allows post-operative Transgender Women or Waria to legally change their gender on official documentation and records, however, many Waria in the country do not have official documentation. Waria are also classified as mentally handicapped by the Department of Social Affairs in Indonesia, which could restrict employment opportunities for transgender people.\textsuperscript{15} Transgender people in other countries in the subregion cannot change their gender on official documents.\textsuperscript{16,17}

**HOW TO USE THIS FRAMEWORK**

This Framework is intended for use as a template for subregional and national advocacy to improve HIV prevention and care among MSM and transgender people. It sets out five Key Domains for Advocacy, provides suggestions for partnerships that would make advocacy more successful and outlines some indicative advocacy strategies. Obviously, national and local Islands of Southeast Asian organizations are more familiar with the particular issues in their area and the barriers that exist for MSM and transgender people so, rather than prescribing specific approaches, the Framework provides a guide to a process they can follow to develop their own priorities, partnerships and strategies.

The Framework is supported by a Resource Guide (the Guide) that summarizes key global and regional commitments and guidelines and provides examples of work that has been done to remove access barriers for MSM and transgender people. The Guide sets out the key clauses and sections of each relevant commitment document, the key sections of guidelines or standards that refer to MSM and transgender people and some of the elements of strategies that have

\textsuperscript{12} Sam Winter, Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region, APTN, UNDP, 2012
\textsuperscript{13} Stefan Baral, Chris Beyrer, and Tonia Poteat, Human Rights, the Law, and HIV among Transgender People, Global Commission on HIV and the Law, 2011
\textsuperscript{14} Stefan Baral, Chris Beyrer, and Tonia Poteat, Human Rights, the Law, and HIV among Transgender People, Global Commission on HIV and the Law, 2011
\textsuperscript{15} HIV and Men who have Sex with Men: Country Snapshots: Indonesia, UNDP, 2012
\textsuperscript{16} HIV and Men who have Sex with Men: Country Snapshots: Malaysia, UNDP, 2012
\textsuperscript{17} HIV and Men who have Sex with Men: Country Snapshots: Philippines, UNDP, 2012
been used in the region to promote access to health for MSM and transgender people. The Guide also contains country summaries of commitments and interventions from Indonesia, Malaysia, Philippines, Brunei, Singapore and Timor-Leste.

Using the Regional Framework as a template, national organizations will be assisted to develop country-level Advocacy Frameworks. Groups and organizations working in advocacy partnerships can use the Framework and tools from ISEAN’s Training Module on Networking and Advocacy for Local CBOs such as the Logic Model Program Planning Template and Advocacy Action Plan (in Annex 1 & 2 below) to develop partnership and organizational action plans to further the advocacy priorities they have developed.

In line with ISEAN’s Training Module on Networking and Advocacy for Local CBOs this framework was developed to assist users through the 8 steps of advocacy as demonstrated in the following table.  

<table>
<thead>
<tr>
<th><strong>8 Steps of Advocacy</strong></th>
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<td><strong>STEP 1</strong></td>
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<td><strong>STEP 6</strong></td>
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<td><strong>STEP 7</strong></td>
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<td><strong>STEP 8</strong></td>
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**KEY DOMAINS FOR ADVOCACY**

Stigma and discrimination is complex and operates at many levels. Breaking down access barriers requires an effort across multiple fronts. To assist in determining priorities and strategies, this Framework identifies five key domains for action. These domains are not separate or discrete. Attitudes and actions within one domain affect, or are influenced by attitudes and actions in another. Tackling stigma and discrimination against MSM and transgender people not only involves working within these domains, but also on the relationships between them. The five domains are:

1. **Legal and Policy Environment**: Sensitization of legislators, parliamentarians, judiciary and law enforcement agencies to work towards replacing the current punitive laws, policies and practices with more rights-based approaches.

18 Training Module on Networking and Advocacy for Local CBOs, ISEAN, p21
2. **Health Services**: Enhanced capacity of health system to respond to health concerns of MSM and transgender people; the need for expanding coverage to deliver HIV prevention, treatment, care and allied health services.

3. **Local Police and Justice Services**: Turning good national policy into good local practice – co-operation of local police in HIV outreach efforts, reductions in harassment, unnecessary arrest, violence, blackmail and corruption, improved responses to reports of crimes against MSM and transgender people. Fair treatment in the justice system. Legal support services available.

4. **Community Structures**: Addressing stigma and discrimination by engaging with community based organizations, faith based groups and other stakeholders to ensure people of diverse sexual orientation and gender identities can access HIV and other social services with dignity and equity.

5. **Media**: Engaging with public media to ensure more balanced and respectful portrayal of HIV, MSM and transgender issues resulting in a reduction of stigma and discrimination. Working to ensure that relevant health information for MSM and transgender people can be published.

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**Framework for Action with Each Domain**

The framework for action is a process guide to assist advocacy organization to develop their own advocacy strategies. We recommend following these steps for each domain and have provided some examples as well as resources to assist in the process:

1. **Determine key priorities**

2. **Identify groups with whom to work in partnership**

3. **Determine key strategies and points of influence**

4. **Draw on key resources to build the case for change**
Key Priorities

South East Asia Legal Environments for Men who have Sex with Men and Transgender People Policy Brief is adapted from the UNDP and APCOM report, titled ‘Legal environments, human rights and HIV responses among men who have sex with men and transgender people in Asia and the Pacific: An agenda for action’\(^\text{19}\), covering 48 countries and territories of the Asia and Pacific region. The Policy Brief summarizes findings and recommendations relating to South East Asia with inputs from three of APCOM coalition members: Developed Asia Network (DAN), Islands of Southeast Asia Network on Male and Transgender Sexual Health (ISEAN) and Purple Sky Network (PSN, covering the Greater Mekong Sub-region).

Recommendations include:

Governments should:

- Repeal laws that criminalize sex between consenting adults.
- Enact anti-discrimination laws in relation to sexual orientation and transgender status.
- Provide legal recognition of gender reassignment and ‘third sex’ status.
- Support community-based education and advocacy regarding the human rights of MSM and transgender people, and access to legal aid for MSM and transgender people who have experienced human rights violations.

The ASEAN Intergovernmental Human Rights Commission should take proactive measures to:

- promote and protect the human rights of MSM and transgender people and encourage member states commit to action to review discriminatory laws and policies, with priority given to repealing laws criminalizing male-to-male sex.

The WHO Regional Offices for the Eastern Mediterranean, South-East Asia and the Western Pacific held a Consultation on HIV, STI and Other Health Needs of Transgender People in Asia and the Pacific from 11 to 13 September 2012 in Manila, Philippines. Key recommendations set out in the Report of the Consultation on HIV, STI and Other Health Needs of Transgender People in Asia and the Pacific include:

- Urgent advocacy is needed in order to create a safe, enabling health-care environment to achieve equal access to health for transgender people and realize the goal of zero HIV new infections, zero discrimination and zero AIDS-related deaths in this community.
- All efforts to address transgender specific issues should be guided by the human rights principles of equality, non-discrimination and meaningful participation and be aimed at community empowerment.
- Transgender people should be legally recognized as having equal rights and dignity, which are and should be protected under the law, with passage of protective legislation to contribute to a climate of acceptance and equality. Transgender people should have the right to legal recognition of their gender identity, and the recognition of gender status should not depend on medical treatment or surgical procedures.
- Transgender people should be involved meaningfully in all efforts aiming to address the health needs of transgender people at all levels: policy-making; programming and service delivery; and design, implementation, monitoring and reporting. In order for this to occur

specific capacity-building and resources should be made available to strengthen and empower the transgender community and civil society organizations, as well as support groups.

The following is a summary of key recommendations made by the Global Commission on HIV and the Law to ensure an effective, sustainable response to HIV that is consistent with human rights obligations:

**MSM**

- Countries must reform their approach towards sexual diversity. Rather than punishing consenting adults involved in same sex activity, countries must offer such people access to effective HIV and health services and commodities.

Countries must:

- Repeal all laws that criminalise consensual sex between adults of the same sex and/or laws that punish homosexual identity.
- Respect existing civil and religious laws and guarantees relating to privacy.
- Remove legal, regulatory and administrative barriers to the formation of community organisations by or for gay men, lesbians and/or bisexual people.
- Amend anti-discrimination laws expressly to prohibit discrimination based on sexual orientation (as well as gender identity).
- Promote effective measures to prevent violence against men who have sex with men.

**Transgender People**

- Countries must reform their approach towards transgender people. Rather than punishing transgender people, countries must offer transgender people access to effective HIV and health services and commodities as well as repealing all laws that criminalise transgender identity or associated behaviours.

Countries must:

- Respect existing civil and religious laws and guarantees related to the right to privacy.
- Repeal all laws that punish cross-dressing.
- Remove legal, regulatory or administrative barriers to formation of community organisations by or for transgender people.
- Amend national anti-discrimination laws to explicitly prohibit discrimination based on gender identity (as well as sexual orientation).
- Ensure transgender people are able to have their affirmed gender recognized in identification documents, without the need for prior medical procedures such as sterilisation, sex reassignment surgery or hormonal therapy.

**Groups with Whom to Work in Partnership**

The following are suggestions of groups with whom to work in partnership on issues related to laws and regulations affecting sexual minorities:
Key Domains for Advocacy

- Association of Southeast Asian Nations (ASEAN), specifically the ASEAN Intergovernmental Commission on Human Rights
- ISEAN HIVOS Programme
- The Asia-Pacific Transgender Network (APTN)
- The Asia Pacific Coalition on Male Sexual Health (APCOM)
- Regional offices of UNAIDS and its Co-sponsors (eg. UNICEF on MSM/transgender under 18; UNFPA on Sexual and Reproductive Health services for MSM/transgender; UNDP on human rights and law)
- International Lesbian, Gay, Bisexual, Trans and Intersex Association Asia (ILGA)
- Donors (USAID, DfID, AusAID, key international Foundations)
- Law Enforcement and HIV Network (LEAHN)
- Human Rights Watch
- International Development Law Organization (IDLO)

Key Regional Strategies and Points of Influence

Some regional strategies and points of influence that can aid in the sensitization of law makers are listed below:

- Share successes in formal recognition of third gender (identity papers, inclusion in voting, judicial recognition of rights) across countries
- Advocate to ensure that national reviews of legal and policy barriers to access to HIV services and national, multi-sectorial consultations on same (pursuant to the ESCAP commitments) address issues faced by MSM and transgender people, and that MSM and transgender people participate in regional reviews of progress
- Package and share strategic information on impact of increased intervention coverage on HIV prevention and care among MSM and transgender people
- Demonstrate connection between stigma and discrimination, structural interventions and service use and access by MSM and transgender people
- Collect and present data on rights violations experienced by MSM and transgender people from community legal services across the region
- Engage with National Human Rights Institutions to monitor, investigate and follow up on rights issues impacting on MSM/transgender people

Key Resources

The following resources are only a select few that can be used to influence change in the legal and policy environment. Details of the documents below, as well as additional resources, can be found summarized in the Resource Guide:
DOMAIN 2 - HEALTH SERVICES

Key Priorities

The following are suggestions of key priorities in the domain of health services. Advocacy organizations are encouraged to prioritize issues that are relevant to their area:

- Reduce (and monitor) the high levels of stigma and discrimination in health services
- Increase knowledge of HIV status by increasing access of MSM and transgender people to VCT and ongoing support
- Promote models of good access and quality for MSM and transgender in primary care/STI services – often a blend of CBO and mainstream services
- Analyse, describe and promote innovative service architecture models – MSM and transgender CBOs working with public and private health services
- Increase knowledge of status by promoting rapid HIV testing models in MSM and transgender populations with clear connection to onward treatment, care and support

Groups with Whom to Work in Partnership

The following are suggestions of groups with whom to work in partnership on issues related to health services:

- Asia Pacific Network of People Living with HIV/AIDS (APN+)
- WHO South-East Asia Regional Office (SEARO) and Western Pacific Regional Office (WPRO)
- APCOM
- ISEAN
- International Union against Sexually Transmitted Infections (IUSTI): Asia Pacific
- Donors
- Local and national NGOs and CBOs, such as the HIV councils or commissions (KPAN-Indonesia, MAC-Malaysia, PNAC-Philippines, KNLHS/NAC-Timor Leste, BDAC-Brunei Darussalam), the
Key Regional Strategies and Points of Influence

There has been more work in Southeast Asia than in many other regions to try to articulate a comprehensive package of health services for MSM and transgender people. There has been little work to-date though on models for implementing this package in practice. Some regional strategies and points of influence related to health services are listed below:

- Document and promote regionally-relevant and innovative models of health service provision to MSM and transgender people
- Establish and promote regional standards of MSM and transgender HIV prevention and care
- Identify barriers and potential solutions to ‘Treatment as Prevention’ for MSM and transgender people with HIV
- Develop and promote holistic healthcare models for transgender people
- Research ways of getting information to the hard-to-reach in transgender and MSM communities, particularly the elderly and the rural (who may neither be members of community groups nor linked to the internet, and may have limited literacy)\(^{20}\)

Key Resources

Details of the documents below as well as additional resources can be found summarized in the Resource Guide:

- Developing a Comprehensive Package of Services to Reduce HIV among Men who have Sex with Men (MSM) and Transgender (TG) Populations in Asia and the Pacific – Regional Consensus Meeting (Bangkok), (UNDP, 2009)
- Examples of Municipal HIV Programming for Men who have Sex with Men and Transgender People in Six Asian Cities, UNDP and others, 2011
- Clinical Guidelines for Sexual Health Care of MSM (International Union against Sexually Transmitted Infections, Asia Pacific Branch, 2005)
- Health sector response to HIV/AIDS among MSM, (WHO SEARO/WPRO, 2009)
- Ensuring universal access to comprehensive HIV services for MSM in Asia and the Pacific, (amfAR 2009)
- Priority HIV and sexual health interventions in the health sector for MSM and TG people in the Asia-Pacific Region, (WHO, 2010)
- HIV/AIDS Among Men who Have Sex with Men and Transgender Populations in South East Asia – the current situation and national responses, (WHO SEARO, 2010)
- 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, (WHO, 2011)

\(^{20}\) APTN/UNDP, Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region, 2012
Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region (UNDP, 2012)

**Key Priorities**

Key priorities related to local police and justice services:

- Local police support for outreach and other services working with MSM and transgender people
- Increased access for MSM and transgender people to legal services and avenues for seeking redress for rights violations
- Strategic information on local police discrimination, violence and harassment driving policy and procedure reform
- Local police are sensitized to key law enforcement concerns of MSM and transgender people and police practices are reviewed and reformed as necessary to ensure a non-discriminatory response to these by police.

**Groups with Whom to Work in Partnership**

The following are suggestions of groups with whom to work in partnership on issues related to translating good national policies into good local practice:

- ISEAN-Hivos Program (IHP), Regional GFATM Round 10
- ISEAN
- International Development Law Organization (IDLO)
- United Nations Office on Drugs and Crime (UNODC)
- Law Enforcement and HIV Network (LEAHN)
- Asia Regional Harm Reduction Network (for lessons in working with police on harm reduction)
- Local and national NGOs and CBOs, such as the HIV councils or commissions (KPAN-Indonesia, MAC-Malaysia, PNAC-Philippines, KNLHS/NAC-Timor Leste, BDAC-Brunei Darussalam)

**Key Strategies and Points of Influence**

- Document and promote effective models for police service and MSM and transgender CBO cooperation
- Identify modules on working with MSM and transgender people in police training and promote as regional best practice
- Document and promote models for better access of MSM and transgender people to legal services
• Engage with National Human Rights Institutions

**DOMAIN 4 - COMMUNITY STRUCTURES**

**Key Priorities**

Some key priorities when addressing stigma and discrimination against MSM and transgender people are the following:

- Greater role for MSM and transgender CBOs in HIV prevention and care
- Better access for MSM and transgender people to mainstream welfare services (often run by faith-based and religious NGOs)
- Religious leaders taking a key role in promoting tolerance and respect for MSM and transgender people
- Community leaders take a key role in breaking down stigma and discrimination

**Groups with Whom to Work in Partnership**

When addressing stigma and discrimination at a regional level it is important to engage with NGOs, CBOs and faith based organizations. Some suggestions are the following:

- ISEAN
- Asia Pacific Council of AIDS Service Organizations (APCASO)
- AIDS Society of Asia and the Pacific (ASAP)
- MSMGF
- APN+
- Local and national networks, NGOs and CBOs, such as, in Indonesia- HCPI, Aliansi Satu Visi, Indonesia LGBTIQ forum, Gay-Waria-MSM National Network (GWL-INA); in Malaysia- myISEAN, PT Foundation; in Philippines- The Dangal Pilipinas; in Timor Leste-CODIVA; and, Singapore- Action for AIDS Singapore.

**Key Strategies and Points of Influence**

- Collect, analyse and disseminate models for MSM and transgender self-organization
- Develop and cost collaborative models between MSM and transgender NGOs and CBOs and other services
- Improve strategic information about contribution of MSM and transgender NGOs and CBOs to HIV prevention and care
- Collect, analyse and disseminate information on positive faith-based responses to HIV among MSM and transgender people
Key Resources

Key resources to guide advocacy work in this domain are the following:

- Scaling up Effective Partnerships: a guide to working with faith-based organizations in the response to HIV, Ecumenical Advocacy Alliance, 2006
- Organizational Mapping Project of HIV/AIDS Groups for MSM and Transgender People in Insular Southeast Asia, 2010
- Regional Youth MSM & Transgender Consultation Meeting Report, September 2010
- Ensuring Universal Access to Comprehensive HIV Services for MSM in Asia and the Pacific: Determining Operations Research Priorities to Improve HIV Prevention, Treatment, Care, and Support Among Men Who Have Sex With Men, amfAR, 2011
- Religious Leadership in Response to HIV (www.hivcommitment.net)

Key Priorities

Some key priorities to think about when engaging with the media to ensure a more balanced and respectful representation of HIV, MSM and transgender issues are the following:

- Improved balance of media coverage of HIV among MSM and transgender people and of MSM and transgender issues in general
- Decreased stigmatization and harm to MSM and transgender people by media

Groups with Whom to Work in Partnership

- National Media and press organizations
- NGOs who target media practice (e.g. CFAR)
- APN+
- APCOM and ISEAN
- Fridae
- Local and national NGOs and CBOs, such as the HIV councils or commissions (KPAN-Indonesia, MAC-Malaysia, PNAC-Philippines, KNLHS/NAC-Timor Leste, BDAC-Brunei Darussalam)
- Local and national networks, NGOs and CBOs, such as, in Indonesia- HCPI, Aliansi Satu Visi, Indonesia LGBTIQ forum, Gay-Waria-MSM National Network (GWL-INA); in Malaysia- myISEAN, PT Foundation; in Philippines- The Dangal Pilipinas; in Timor Leste- CODIVA; and, Singapore- Action for AIDS Singapore.

Key Strategies and Points of Influence

Engaging with the media should be with the intention of reducing stigma and discrimination of sexual minorities and people living with HIV, some strategies of engagement are the following:
• Development of a range of positive media stories about MSM and transgender people
• Promotion of attention to MSM and transgender people in media codes of practice
• Development of regional media awards or other good practice recognition strategies

**Key Resources**

• B-Change: Connecting the Dots – Blueprint of a Regional Technology Strategy for Development, 2013
• Media Reference Guide (Gay and Lesbian Alliance Against Defamation – GLAAD, 2010)
Definition of Terms

1. Problem Statement – Describe the problem(s) your programme is attempting to solve or the issue(s) your programme will address.

2. Community Needs/Assets – Specify the needs and/or assets of your community that led your problem(s) or issue(s).

3. Desired Results (Outputs, Outcomes, and Impacts) – Identify your desired results, or vision of the future, by describing what you expect to achieve, near or long term, if your programme is funded.

4. Influential Factors – List the factors (e.g. protective or risk factors, existing policy environment or other factors) you believe will influence change in your community.

5. Strategies – List general, successful strategies or “best practices” your research identified that have helped communities like your achieve the kinds of results your programme promises.

6. Assumptions – State the assumptions behind how and why the identified change strategies will work in your community (e.g. principles, believes, ideas).

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Example of Logic Model Development Programme Planning Template

**Strategies**

1. Create a free clinic staffed primarily by volunteers physicians, nurses, and pharmacists as in anywhere, USA.
2. Ask doctors to see patients for free in their own practices/Columbia, SC.

**Assumptions**

1. Mytown has a history of successful volunteer programs.
2. The Medical Society will encourage volunteers and provide on-going support.
3. The clinic can find and operate in donated space.
4. The hospital will support a free clinic to improve patient health and to save money.

**Influential Factors**

1. Chamber predicts increase in # of small business unable to offer employee health insurance.
2. There is a strong community support for a free clinic generated by the uninsured task force.
3. 3 major corporate leaders have expressed interest in a free clinic.

**Problem or Issue**

1. Increased # of uninsured workers.
2. Local plant closings limit jobs.
3. Costs of uninsured ER care are rising.
4. Hospitals cannot fund free ER care forever.

**Community Needs/Assets**

1. Increased access to affordable health care for uninsured Mytown residents.
2. Create free clinic to offer affordable health care + education.
3. Decrease # of uninsured patients seeking care in ER.
4. Increase # of uninsured patients with a medical home.

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Annex 2: Advocacy Action Plan

<table>
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<tr>
<th>Activities</th>
<th>Action/Organizers</th>
<th>Target Audience</th>
<th>Success Indicators</th>
<th>Schedule/Timeframe</th>
<th>Resources Needed</th>
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23 Training Module on Networking and Advocacy for Local CBOs, ISEAN, p24
Resource Guide

ABOUT THIS GUIDE

This guide has been prepared to provide advocates from civil society, government and private sector in Southeast Asia with an easy-to-use resource guide of the literature that is available to them to assist them in their work to develop and maintain an effective network of HIV prevention and care services and programmes among transgender people and gay men and other men who have sex with men.

It sets out the global and regional commitments and guidelines that can be used to strengthen arguments for addressing the many access barriers that exist for these populations, and examples of the work that has been done to remove these barriers.

It also contains country summaries of commitment and interventions for Indonesia, Malaysia, Philippines and Timor-Leste.

USING THIS GUIDE

Documents are arranged in levels: global, regional and national. Key commitments, standards or guidance points are summarized and there is a link available to the source document.

Country-level initiatives are summarized, with a link to the key implementing agency, where applicable.

1. GLOBAL

INTERNATIONAL HUMAN RIGHTS DECLARATIONS

The Universal Declaration of Human Rights (United Nations, 1948)

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,
Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly,

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

All Articles are relevant, but specifically:

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections, which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

**Article 25**

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

**International Covenant on Economic, Social and Cultural Rights, 1966**

(United Nations High Commissioner for Human Rights, 1966)

**Preamble**

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

**All Articles are relevant, but specifically:**

**Article 7**

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

a. Remuneration which provides all workers, as a minimum, with:

   i. Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
ii. A decent living for themselves and their families in accordance with the provisions of
the present Covenant;

b. Safe and healthy working conditions;

c. Equal opportunity for everyone to be promoted in his employment to an appropriate higher
level, subject to no considerations other than those of seniority and competence;

d. Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as
well as remuneration for public holidays.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate
standard of living for himself and his family, including adequate food, clothing and
housing, and to the continuous improvement of living conditions. The States Parties will
take appropriate steps to ensure the realization of this right, recognizing to this effect the
essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone
to be free from hunger, shall take, individually and through international co-operation, the
measures, including specific programmes, which are needed:

a. To improve methods of production, conservation and distribution of food by making full
use of technical and scientific knowledge, by disseminating knowledge of the principles
of nutrition and by developing or reforming agrarian systems in such a way as to achieve
the most efficient development and utilization of natural resources;

b. Taking into account the problems of both food-importing and food-exporting countries,
to ensure an equitable distribution of world food supplies in relation to need.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment
of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full
realization of this right shall include those necessary for:

a. The provision for the reduction of the stillbirth-rate and of infant mortality and for the
healthy development of the child;

b. The improvement of all aspects of environmental and industrial hygiene;

c. The prevention, treatment and control of epidemic, endemic, occupational and other
diseases;

d. The creation of conditions which would assure to all medical service and medical
attention in the event of sickness.
The Right to the Highest Attainable Standard of Health, General Comment No 14, 2000 (UN Economic and Social Council, 2000)

Preamble

The Special Comment on the right to the highest attainable standard of health sets out standards for accessibility in four areas: non-discrimination; physical accessibility; economic accessibility (affordability); and information accessibility. It pays particular attention to the needs of vulnerable and marginalized groups.

All Articles are relevant, but specifically:

Core obligations:

43. In General Comment No. 3, the Committee confirms that States parties have a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enunciated in the Covenant, including essential primary health care. Read in conjunction with more contemporary instruments, such as the Programme of Action of the International Conference on Population and Development, the Alma-Ata Declaration provides compelling guidance on the core obligations arising from article 12. Accordingly, in the Committee’s view, these core obligations include at least the following obligations:

a. To ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups;

b. To ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone;

c. To ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water;

d. To provide essential drugs, as from time to time defined under the WHO Action Programme on Essential Drugs;

e. To ensure equitable distribution of all health facilities, goods and services;

f. To adopt and implement a national public health strategy and plan of action, on the basis of epidemiological evidence, addressing the health concerns of the whole population; the strategy and plan of action shall be devised, and periodically reviewed, on the basis of a participatory and transparent process; they shall include methods, such as right to health indicators and benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all vulnerable or marginalized groups.

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 (UN General Assembly, Human Rights Council, 2011)

Preamble

This document sets out the rationale for a right-based approach to health. It connects the domains of human rights and human development.
It uses the example of HIV and AIDS to show how a rights-based approach can add value to development policies and programmes.

**Specific sections:**

The ‘right to health’ framework complements current development approaches by underlining the importance of aspects such as participation, community empowerment and the need to focus on vulnerable populations.

**Specific paragraphs:**

40. The relationship between the law, public health and human rights has thus been seen as of particular importance in relation to HIV. In an attempt to control the virus and the social practices that result in its spread, laws may be hastily enacted that are only partially successful in achieving behavioural change. The “AIDS paradox” is that: ‘...one of the most effective laws we can offer to combat the spread of HIV which causes AIDS is the protection of persons living with AIDS, and those about them, from discrimination.’ Indeed, this paradox does not exist only in respect of laws. Any development intervention designed to combat the spread of HIV which respects the human rights of those directly affected by and those most at risk of HIV, will ultimately be more effective in achieving its stated goals.

41. HIV thus represents a good example of the multi-faceted relationship between health and human rights. It shows how health policies and legislation can impact detrimentally on human rights, while violations of human rights can detrimentally affect health. Thus, policies and legislation which allow for the quarantining of a person who has contracted HIV would infringe on the right to liberty and security of person, while “naming and shaming” people who test positive to HIV, in violation of their right to privacy and confidentiality, creates stigma and deters others from seeking out testing and counselling. This close interrelationship also means that human rights and health-related policies and programmes have a great potential to be mutually reinforcing in the realization of health-related development and the right to health.

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**The Paris Declaration, 1994 (UNAIDS, 1994)**

During the 1994 Paris AIDS Summit a joint commitment was made by all Governments and Representatives present stating, “We, the Heads of Government or Representatives of the 42 States assembled in Paris on 1 December 1994 Solemnly Declare:"

**All are relevant, but specifically:**

- our obligation as political leaders to make the fight against HIV and AIDS a priority,
- our obligation to act with compassion for and in solidarity with those with HIV or at risk of becoming infected, both within our societies and internationally,
- our determination to ensure that all persons living with HIV and AIDS are able to realize the full and equal enjoyment of their fundamental rights and freedoms without distinction and under all circumstances,
- our determination to fight against poverty, stigmatization and discrimination,
- our determination to mobilize all of society – the public and private sectors, community-based organizations and people living with HIV and AIDS – in a spirit of true partnership,
• our appreciation and support for the activities and work carried out by multilateral, intergovernmental, non-governmental and community-based organizations, and our recognition of their important role in combating the pandemic,

Undertake in our national policies to:

• protect and promote the rights of individuals, in particular those living with or most vulnerable to HIV and AIDS, through the legal and social environment,

• fully involve non-governmental and community-based organizations as well as people living with HIV and AIDS in the formulation and implementation of public policies,

• ensure equal protection under the law for persons living with HIV and AIDS with regard to access to health care, employment, education, travel, housing and social welfare,

• intensify the following range of essential approaches for the prevention of HIV and AIDS:
  
  i. promotion of and access to various culturally acceptable prevention strategies and products, including condoms and treatment of sexually transmitted diseases,

  ii. specific risk-reduction activities for and in collaboration with the most vulnerable populations, such as groups at high risk of sexual transmission and migrant populations.

Millennium Development Goals, 1994 (UN, 2000)

In September 2000, 189 heads of State and Government gathered to reaffirm their commitment to the United Nations. Out of this meeting the General Assembly adopted the United Nations Millennium Declaration which outlined commitments to values and principles; peace, security and disarmament; development and poverty eradication; protecting common environment; human rights; democracy and good governance; protecting the vulnerable; meeting the special needs of Africa; and, strengthening the United Nations (UN General Assembly 55th Session, Agenda Item 60, 2000). The declaration led to the development of the Millennium Development Goals (MDGs), a series of eight time-bound goals with sub-goals which have been adopted by all 191 UN member states.

All Goals are relevant, but specifically:

Goal 6:

Combat HIV/AIDS, malaria and other diseases

Target 6.A:

Have halted by 2015 and begun to reverse the spread of HIV/AIDS

• The spread of HIV appears to have stabilized in most regions, and more people are surviving longer

• Empowering women through AIDS education is indeed possible, as a number of countries have shown

• Condom use during high-risk sex is gaining acceptance in some countries and is one facet of effective HIV prevention

• Mounting evidence shows a link between gender-based violence and HIV
Target 6.B:
Achieve, by 2010, universal access to treatment for HIV/AIDS for all those who need it

- Expanded treatment for HIV-positive women also safeguards their newborns

**UNGASS Declaration of Commitment (DoC) on AIDS, 2001** *(United Nations, 2001)*

In 2001, all UN member states adopted the UNGASS Declaration of Commitment "Global Crisis-Global Action" with the goal of reversing the AIDS epidemic. The Declaration contained time-bound commitments.

All commitments are relevant, but specifically:

- By 2003, enact, strengthen or enforce, as appropriate, legislation, regulations and other measures to eliminate all forms of discrimination against and to ensure the full enjoyment of all human rights and fundamental freedoms by people living with HIV/AIDS and members of vulnerable groups, in particular to ensure their access to, inter alia, education, inheritance, employment, health care, social and health services, prevention, support and treatment, information and legal protection, while respecting their privacy and confidentiality; and develop strategies to combat stigma and social exclusion connected with the epidemic;

- By 2005, develop and make significant progress in implementing comprehensive care strategies to: strengthen and community-based care, including that provided by the informal sector, and healthcare systems to provide and monitor treatment to people living with HIV/AIDS, including infected children, and to support individuals, households, families and communities affected by HIV/AIDS; and improve the capacity and working conditions of health-care personnel, and the effectiveness of supply systems, financing plans and referral mechanisms required to provide access to affordable medicines, including anti-retroviral drugs, diagnostics and related technologies, as well as quality medical, palliative and psychosocial care.

**Political Declaration on HIV/AIDS, 2006** *(UN General Assembly 60th session, Agenda Item 45, 2006)*

In June 2006 Heads of State and Government and representatives of States and Governments participated in the comprehensive review of the progress achieved in realizing the targets set out in the Declaration of Commitment on HIV/AIDS. UN Member States reaffirmed their commitment to achieving the goals set out in the DoC and developed the Political Declaration on HIV/AIDS, which contained a set of political commitments.

All commitments are relevant, but specifically:

Heads of State and Government and representatives of States and Governments:

- Commit ourselves to overcoming legal, regulatory or other barriers that block access to effective HIV prevention, treatment, care and support, medicines, commodities and services;

- Pledge to promote, at the international, regional, national and local levels, access to HIV education, information, voluntary counseling and testing and related services, with full protection of confidentiality and informed consent, and to promote a social and legal environment that is supportive of and safe for voluntary disclosure of HIV status;
• Commit ourselves to intensifying efforts to enact, strengthen or enforce, as appropriate, legislation, regulations and other measures to eliminate all forms of discrimination against and to ensure the full enjoyment of all human rights and fundamental freedoms by people living with HIV and members of vulnerable groups, in particular to ensure their access to, inter alia, education, inheritance, employment, health care, social and health services, prevention, support and treatment, information and legal protection, while respecting their privacy and confidentiality; and developing strategies to combat stigma and social exclusion connected with the epidemic.

Political Declaration on HIV and AIDS: Intensifying Our Efforts to Eliminate HIV and AIDS, 2011 (United Nations, 2011)

The United Nations High Level Meeting on HIV/AIDS was held on 8–10 June 2011 in New York to review the progress achieved in meeting the commitments of the 2001 Declaration of Commitment on HIV/AIDS and the 2006 Political Declaration on HIV/AIDS. The Political Declaration on HIV and AIDS saw the 193 Member States of the United Nations commit to redouble efforts to achieve universal access for HIV prevention, treatment, care and support by 2015 with a view to fulfilling Millennium Development Goal 6.

All commitments are relevant, but specifically:

• Commit to ensure that national prevention strategies comprehensively target populations at higher risk and that systems of data collection and analysis about these populations are strengthened and to take measures to ensure that HIV services, including voluntary and confidential HIV testing and counseling are accessible to these populations so that they are encouraged to access HIV prevention, treatment, care and support;

• Commit to intensify national efforts to create enabling legal, social and policy frameworks in each national context in order to eliminate stigma, discrimination and violence related to HIV and promote access to HIV prevention, treatment, care and support and non-discriminatory access to education, health care, employment and social services, provide legal protections for people affected by HIV, including inheritance rights and respect for privacy and confidentiality, and promote and protect all human rights and fundamental freedoms, with particular attention to all people vulnerable to and affected by HIV;

• Commit to review, as appropriate, laws and policies that adversely affect the successful, effective and equitable delivery of HIV prevention, treatment, care and support programmes to people living with and affected by HIV and to consider their review in accordance with relevant national review frameworks and time frames;

• Commit to national HIV and AIDS strategies that promote and protect human rights, including programmes aimed at eliminating stigma and discrimination against people living with and affected by HIV, including their families, including by sensitizing the police and judges, training health-care workers in non-discrimination, confidentiality and informed consent, supporting national human rights learning campaigns, legal literacy and legal services, as well as monitoring the impact of the legal environment on HIV prevention, treatment, care and support.


The 2010 UNAIDS Getting to Zero Strategy highlighted global commitments to HIV/AIDS and outlined three strategic directions with corresponding goals.
The three strategic directions are:

- Zero new infections
- Zero AIDS-related deaths
- Zero discrimination

All goals are relevant, but specifically:

- Sexual transmission of HIV reduced by half, including among young people, men who have sex with men and transmission in the context of sex work
- Universal access to antiretroviral therapy for people living with HIV who are eligible for treatment
- Countries with punitive laws and practices around HIV transmission, sex work, drug use or homosexuality that block effective responses reduced by half
- Zero tolerance for gender-based violence

Yogyakarta Principles – Principles on the application of international human rights law in relation to sexual orientation and gender identity
(Collective, 2007)

In November 2006 a group of human rights experts met in Yogyakarta, Indonesia and developed a set of principles on the application of human rights laws in relation to sexual orientation and gender identity. The Yogyakarta Principles affirm binding international legal standards that all states are obligated to comply with. The Principles define sexual orientation and gender identity as the following:

- Sexual orientation is understood to refer to each person’s capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender.

- Gender identity is understood to refer to each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.

All Principles are relevant, but specifically:

Principle 1

The right to the universal enjoyment of human rights:

All human beings are born free and equal in dignity and rights. Human beings of all sexual orientations and gender identities are entitled to the full enjoyment of all human rights.
**States shall:**

a. Embody the principles of the universality, interrelatedness, interdependence and indivisibility of all human rights in their national constitutions or other appropriate legislation and ensure the practical realization of the universal enjoyment of all human rights;

b. Amend any legislation, including criminal law, to ensure its consistency with the universal enjoyment of all human rights;

c. Undertake programmes of education and awareness to promote and enhance the full enjoyment of all human rights by all persons, irrespective of sexual orientation or gender identity;

d. Integrate within State policy and decision-making a pluralistic approach that recognises and affirms the interrelatedness and indivisibility of all aspects of human identity including sexual orientation and gender identity.

**Principle 2**

The rights to equality and non-discrimination:

Everyone is entitled to enjoy all human rights without discrimination on the basis of sexual orientation or gender identity. Everyone is entitled to equality before the law and the equal protection of the law without any such discrimination whether or not the enjoyment of another human right is also affected. The law shall prohibit any such discrimination and guarantee to all persons equal and effective protection against any such discrimination. Discrimination on the basis of sexual orientation or gender identity includes any distinction, exclusion, restriction or preference based on sexual orientation or gender identity which has the purpose or effect of nullifying or impairing equality before the law or the equal protection of the law, or the recognition, enjoyment or exercise, on an equal basis, of all human rights and fundamental freedoms. Discrimination based on sexual orientation or gender identity may be, and commonly is, compounded by discrimination on other grounds including gender, race, age, religion, disability, health and economic status.

**States shall:**

a. Embody the principles of equality and non-discrimination on the basis of sexual orientation and gender identity in their national constitutions or other appropriate legislation, if not yet incorporated therein, including by means of amendment and interpretation, and ensure the effective realization of these principles;

b. Repeal criminal and other legal provisions that prohibit or are, in effect, employed to prohibit consensual sexual activity among people of the same sex who are over the age of consent, and ensure that an equal age of consent applies to both same-sex and different-sex sexual activity;

c. Adopt appropriate legislative and other measures to prohibit and eliminate discrimination in the public and private spheres on the basis of sexual orientation and gender identity;

d. Take appropriate measures to secure adequate advancement of persons of diverse sexual orientations and gender identities as may be necessary to ensure such groups or individuals equal enjoyment or exercise of human rights. Such measures shall not be deemed to be discriminatory;

e. In all their responses to discrimination on the basis of sexual orientation or gender identity, take account of the manner in which such discrimination may intersect with other forms of discrimination;
f. Take all appropriate action, including programmes of education and training, with a view to achieving the elimination of prejudicial or discriminatory attitudes or behaviours which are related to the idea of the inferiority or the superiority of any sexual orientation or gender identity or gender expression.

Principle 3

The right to recognition before the law:

Everyone has the right to recognition everywhere as a person before the law. Persons of diverse sexual orientations and gender identities shall enjoy legal capacity in all aspects of life. Each person’s self-defined sexual orientation and gender identity is integral to their personality and is one of the most basic aspects of self-determination, dignity and freedom. No one shall be forced to undergo medical procedures, including sex reassignment surgery, sterilisation or hormonal therapy, as a requirement for legal recognition of their gender identity. No status, such as marriage or parenthood, may be invoked as such to prevent the legal recognition of a person’s gender identity. No one shall be subjected to pressure to conceal, suppress or deny their sexual orientation or gender identity.

States shall:

a. Ensure that all persons are accorded legal capacity in civil matters, without discrimination on the basis of sexual orientation or gender identity, and the opportunity to exercise that capacity, including equal rights to conclude contracts, and to administer, own, acquire (including through inheritance), manage, enjoy and dispose of property;

b. Take all necessary legislative, administrative and other measures to fully respect and legally recognise each person’s self-defined gender identity;

c. Take all necessary legislative, administrative and other measures to ensure that procedures exist whereby all State-issued identity papers which indicate a person’s gender/sex — including birth certificates, passports, electoral records and other documents — reflect the person’s profound self-defined gender identity;

d. Ensure that such procedures are efficient, fair and non-discriminatory, and respect the dignity and privacy of the person concerned;

e. Ensure that changes to identity documents will be recognised in all contexts where the identification or disaggregation of persons by gender is required by law or policy;

f. Undertake targeted programmes to provide social support for all persons experiencing gender transitioning or reassignment.

Principle 17

The right to the highest attainable standard of health:

Everyone has the right to the highest attainable standard of physical and mental health, without discrimination on the basis of sexual orientation or gender identity. Sexual and reproductive health is a fundamental aspect of this right.

States shall:

a. Take all necessary legislative, administrative and other measures to ensure enjoyment of the right to the highest attainable standard of health, without discrimination on the basis of sexual orientation or gender identity;
b. Take all necessary legislative, administrative and other measures to ensure that all persons have access to healthcare facilities, goods and services, including in relation to sexual and reproductive health, and to their own medical records, without discrimination on the basis of sexual orientation or gender identity;

c. Ensure that healthcare facilities, goods and services are designed to improve the health status of, and respond to the needs of, all persons without discrimination on the basis of, and taking into account, sexual orientation and gender identity, and that medical records in this respect are treated with confidentiality;

d. Develop and implement programmes to address discrimination, prejudice and other social factors which undermine the health of persons because of their sexual orientation or gender identity;

e. Ensure that all persons are informed and empowered to make their own decisions regarding medical treatment and care, on the basis of genuinely informed consent, without discrimination on the basis of sexual orientation or gender identity;

f. Ensure that all sexual and reproductive health, education, prevention, care and treatment programmes and services respect the diversity of sexual orientations and gender identities, and are equally available to all without discrimination;

g. Facilitate access by those seeking body modifications related to gender reassignment to competent, non-discriminatory treatment, care and support;

h. Ensure that all health service providers treat clients and their partners without discrimination on the basis of sexual orientation or gender identity, including with regard to recognition as next of kin;

i. Adopt the policies, and programmes of education and training, necessary to enable persons working in the healthcare sector to deliver the highest attainable standard of healthcare to all persons, with full respect for each person’s sexual orientation and gender identity.

**Principle 19**

*The right to freedom of opinion and expression:*

Everyone has the right to freedom of opinion and expression, regardless of sexual orientation or gender identity. This includes the expression of identity or personhood through speech, deportment, dress, bodily characteristics, choice of name, or any other means, as well as the freedom to seek, receive and impart information and ideas of all kinds, including with regard to human rights, sexual orientation and gender identity, through any medium and regardless of frontiers.

**States shall:**

a. Take all necessary legislative, administrative and other measures to ensure full enjoyment of freedom of opinion and expression, while respecting the rights and freedoms of others, without discrimination on the basis of sexual orientation or gender identity, including the receipt and imparting of information and ideas concerning sexual orientation and gender identity, as well as related advocacy for legal rights, publication of materials, broadcasting, organisation of or participation in conferences, and dissemination of and access to safer-sex information;

b. Ensure that the outputs and the organisation of media that is State-regulated is pluralistic and non-discriminatory in respect of issues of sexual orientation and gender identity and
that the personnel recruitment and promotion policies of such organisations are non-discriminatory on the basis of sexual orientation or gender identity;

c. Take all necessary legislative, administrative and other measures to ensure the full enjoyment of the right to express identity or personhood, including through speech, deportment, dress, bodily characteristics, choice of name or any other means;

d. Ensure that notions of public order, public morality, public health and public security are not employed to restrict, in a discriminatory manner, any exercise of freedom of opinion and expression that affirms diverse sexual orientations or gender identities;

e. Ensure that the exercise of freedom of opinion and expression does not violate the rights and freedoms of persons of diverse sexual orientations and gender identities;

f. Ensure that all persons, regardless of sexual orientation or gender identity, enjoy equal access to information and ideas, as well as to participation in public debate.


In June 2011, a group of experts in the field of HIV and the law undertook an 18-month review of global HIV-related legal environments. The Commission reported findings and made recommendations to aid governments and international bodies in the creation of enabling legal environments.

In order to ensure an effective, sustainable response to HIV that is consistent with human rights obligations, countries must repeal all laws that criminalize consensual same-sex sexual activity and promote effective measures to prevent violence against MSM. Rather than punishing consenting adults involved in same-sex activity, countries must offer access to effective HIV and health services.

All recommendations made by the commission are relevant, but specifically:

To ensure an effective, sustainable response to HIV that is consistent with human rights obligations:

• Countries must prohibit police violence against key populations.

• Countries must also support programmes that reduce stigma and discrimination against key populations and protect their rights.

• Countries must reform their approach towards sexual diversity. Rather than punishing consenting adults involved in same-sex activity, countries must offer such people access to effective HIV and health services and commodities.

Countries must:

• Repeal all laws that criminalize consensual sex between adults of the same sex and/or laws that punish homosexual identity.

• Respect existing civil and religious laws and guarantees relating to privacy.

• Remove legal, regulatory and administrative barriers to the formation of community organizations by or for gay men, lesbians and/or bisexual people.
• Amend anti-discrimination laws expressly to prohibit discrimination based on sexual orientation (as well as gender identity).

• Promote effective measures to prevent violence against men who have sex with men.

• Countries must reform their approach towards transgender people. Rather than punishing transgender people, countries must offer transgender people access to effective HIV and health services and commodities as well as repealing all laws that criminalize transgender identity or associated behaviours.

Countries must:

• Respect existing civil and religious laws and guarantees related to the right to privacy.

• Repeal all laws that punish cross-dressing.

• Remove legal, regulatory or administrative barriers to formation of community organizations by or for transgender people.

• Amend national anti-discrimination laws to explicitly prohibit discrimination based on gender identity (as well as sexual orientation).

• Ensure transgender people are able to have their affirmed gender recognized in identification documents, without the need for prior medical procedures such as sterilization, sex reassignment surgery or hormonal therapy.

Amnesty International, Sexual Orientation and Gender Identity (Amnesty International n.d.)

Amnesty International has embraced a sexual orientation and gender identity framework as part of its Demand Dignity campaign, which aims to end the human rights violations that drive and deepen global poverty.

Amnesty International is calling for:

• The decriminalisation of homosexuality where such legislation remains. This entails reviewing all legislation which could result in the discrimination, prosecution and punishment of people solely for their sexual orientation or gender identity.

This includes:

• “sodomy” laws or similar provisions outlawing sexual conduct between people of same-sex or transgender individuals;

• discriminatory age-of-consent legislation;

• public order legislation used as a pretext for prosecuting and punishing people solely for their sexual orientation or gender identity; and

• laws banning the “promotion” of homosexuality which can be used to imprison lesbian, gay, bisexual, same-sex practicing and transgender individuals and human rights defenders. All such laws should be repealed or amended.

• A review of all legislation under which a person may be killed by the state, with the immediate aim of progressively restricting the scope of the death penalty so that it is not applied on the basis of sexual orientation or gender identity, and with a view to the eventual abolition of
the death penalty, and flogging, all other corporal punishments and all other cruel, inhuman and degrading punishments should be abolished in law.

• The immediate and unconditional release of all prisoners of conscience held solely on the basis of their actual or imputed sexual orientation or gender identity.

In addition, Amnesty International is calling on states to:

• ensure that all allegations and reports of human rights violations based on sexual orientation or gender identity are promptly and impartially investigated and perpetrators held accountable and brought to justice;

• take all necessary legislative, administrative and other measures to prohibit and eliminate prejudicial treatment on the basis of sexual orientation or gender identity at every stage of the administration of justice;

• end discrimination in civil marriage laws on the basis of sexual orientation or gender identity and recognise families of choice, across borders where necessary;

• ensure adequate protection of human rights defenders at risk because of their work on human rights and sexual orientation and gender identity.

Human Rights Considerations in Addressing HIV Among Men who Have Sex with Men (Avrett, 2011)

This technical brief provides guidance on rights-based approaches to HIV programming for MSM. It identifies three strategies that are necessary for rights-based programming and provides practical examples of ways in which such programmes have improved health and human rights environments for MSM.

Strategy 1:

• Engage with those who would benefit

Purpose:

• To advance their collective needs and priorities for health and rights.

• Support effective measures to prevent HIV and improve health in the community.

Recommended programme approaches:

• Encourage peer-to-peer support, dialogue, and leadership among MSM.

• Encourage and support the involvement of MSM in health and rights programming.

Strategy 2:

• Remove barriers that limit access to HIV programming

Purpose:

• To increase the number of MSM who access HIV services, thus increasing the proportion of MSM who receive HIV counseling, testing, and treatment in the context of combination HIV interventions, and ultimately reducing rates of HIV infections and improving the overall health of MSM.
Recommended programme approaches:

- Document policies and practices that present barriers to the HIV response.
- Promote literacy about human rights and supportive policies and practices.
- Support reporting of and response to rights violations.
- Facilitate dialogue between MSM and policymakers.

**Strategy 3:**

- Integrate rights approaches within health programming and support universal rights to health

Purpose:

- To increase access to and use of appropriate, non-discriminatory, and easily available HIV services, with the ultimate aim of reducing the incidence of STIs, HIV, and AIDS-related illness.

Recommended programme approaches:

- Promote professional and institutional standards in health care settings
- Support peer-based health services in both community and clinical settings.
- Fund health programming for MSM at sufficient scale.

**Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity** *(UN Assembly: Human Rights Council, 2011)*

The report sets out the areas within which people are discriminated against because of sexual orientation and gender identity and the laws and commitments that guide the removal of these forms of discrimination.

The report specifically addresses:

- The absolute right to be free from torture, inhuman or degrading treatment on the grounds of sexual orientation or gender identity
- The right to privacy and against arbitrary detention
- The right to life, liberty and security
- The need to record and address all forms of homophobic and transgender-phobic violence

**Gender recognition and related issues:**

71. In many countries, transgender persons are unable to obtain legal recognition of their preferred gender, including a change in recorded sex and first name on State-issued identity documents. As a result, they encounter many practical difficulties, including when applying for employment, housing, bank credit or State benefits, or when travelling abroad.

72. Regulations in countries that recognize changes in gender often require, implicitly or explicitly, that applicants undergo sterilization surgery as a condition of recognition. Some
States also require that those seeking legal recognition of a change in gender be unmarried, implying mandatory divorce in cases where the individual is married.

73. The Human Rights Committee has expressed concern regarding lack of arrangements for granting legal recognition of transgender people’s identities. It has urged States to recognize the right of transgender persons to change their gender by permitting the issuance of new birth certificates and has noted with approval legislation facilitating legal recognition of a change of gender.

The Global Fund Strategy in Relation to Working with Sexual Orientation and Gender Identities (The Global Fund, 2009)

In 2009 the Global Fund board approved the Strategy in Relation to Sexual Orientation and Gender Identity (SOGI). This strategy identified that MSM, transgender people and sex workers often have a difficult time accessing Global Fund grant money and have limited access to Global Fund decision-making bodies, exacerbating the barriers to access to funding. The Strategy recommends 19 actions that the Global Fund Secretariat, its governance structures and its partners can take to better meet the needs of SOGI.

All recommended actions are relevant, but specifically:

- **Action 7**
  The Global Fund will work with the Technical Review Panel to strengthen technical review criteria with additional language about both gender equality and SOGI-related health and rights.

- **Action 9**
  The Global Fund will work with Principal Recipients and Country Coordinating Mechanisms to encourage increased country-level and regional-level budget allocations for development of monitoring and evaluation adapted to interventions on vulnerabilities related to gender inequality and SOGI in the fight against HIV, TB and malaria.

- **Action 14**
  The Global Fund will support Principal Recipients in improving plans and budgets for community systems strengthening relevant to gender and SOGI in in-country contexts, including budgeting and contracting for technical assistance for this community systems strengthening.

- **Action 15**
  The Global Fund will work with in-country partners, in ways appropriate to those settings, to raise and discuss the role of criminalization of consensual adult homosexual behaviours as a potential barrier to effective health interventions for people due to SOGI.

- **Action 19**
  The Global Fund will commit to meeting with government and civil society representatives before it holds Board meetings in any country where sex between consenting adults of the same gender is criminalized. The Global Fund will use the occasion of a Board Meeting to bring exposure and urgency to this issue through high-level meetings and public relations events, conducted within the scope and mandate of the work of the Global Fund. As with the politically sensitive issue of HIV-related travel restrictions, the Global Fund Board commits to
dialogue with policy-makers so that decisions can be made with maximum understanding of the implications of such laws and policies.

**UNAIDS Action Framework: Universal Access for Men who have Sex with Men and Transgender People (UNAIDS, 2009)**

The UNAIDS Action Framework was developed with a view of achieving universal access to HIV prevention, treatment, care and support for MSM and transgender people in order to achieve universal access for all. The Framework highlights that actions must be grounded in an understanding of and commitment to human rights and that actions must be informed by evidence. Action is required by a broad range of stakeholders including affected communities, allies, governments, private sector and the UN family. The Framework proposes three immediate objectives and corresponding actions to scale up the response to HIV.

**The objectives and key actions proposed:**

- **Objective 1**
  
  Improve the human rights situation for men who have sex with men and transgender people—the cornerstone to an effective response to HIV

  **For an enhanced response for male-to-male sex, transgender people and HIV, UNAIDS and its Cosponsors will:**

  - Develop, strengthen and promote rights-based norms and standards for the integration of men who have sex with men and transgender people into national AIDS responses and provide specific policies and guidance for rights-based and evidence-informed programmes and services;
  
  - Support and strengthen partnerships to address the political, social, legal and economic barriers to appropriately addressing HIV-related issues among men who have sex with men and transgender people.

- **Objective 2**

  Strengthen and promote the evidence base on men who have sex with men, transgender people and HIV

  **For an enhanced response for male-to-male sex, transgender people and HIV, the UNAIDS Secretariat and Cosponsors will:**

  - Ensure that country partners and other partners have adequate information to develop and support the implementation of appropriate policies and programmes addressing male-to-male sex, transgender people and HIV by supporting improved epidemiological and behavioral surveillance, programme monitoring and evaluation, and related operational research on men who have sex with men and transgender people in relation to HIV (population size, epidemiological, behavioural, social, human rights and other aspects, where relevant, and paying attention to different men who have sex with men and transgender identities, behaviours and situations, such as male sex workers, injecting drug users and prison populations), including appropriate HIV sentinel surveillance, while providing guidance and technical support for the collection of this information;
• Develop, document and share evidence of successful HIV programme models that address men who have sex with men and transgender people, along with lessons learnt, to facilitate improved, more targeted and scaled-up programming.

• **Objective 3**

Strengthen capacity and promote partnerships to ensure broader and better responses for men who have sex with men, transgender people and people with HIV

**For an enhanced response for male-to-male sex, transgender people and HIV, the UNAIDS Secretariat and Cosponsors will:**

• Identify and advocate additional financial resources to address HIV among men who have sex with men and transgender people, help direct these resources to where they are most needed, and support governments and civil society in receiving and applying funds for HIV-related work that addresses male-to-male sex and transgender people;

• Ensure that UNAIDS-supported regional knowledge hubs and technical support facilities are able to deliver timely support and strategic information on male-to-male sex, transgender people and HIV.

**Technical Guidance on Combination HIV Prevention for MSM, 2011**

(PEPFAR, 2011)

The United States Global Leadership Against HIV/AIDS, TB and Malaria Reauthorization Act of 2008 recognized the need for PEPFAR to provide assistance for HIV/AIDS education programmes and training to prevent the transmission of HIV among MSM. PEPFAR’s Technical Guidance on Combination HIV Prevention for MSM identifies a set of core prevention interventions that should be delivered by partner countries to adequately address the needs of MSM. Country Teams are expected to build the capacity of partner countries in order to implement these interventions in a non-discriminatory manner. The Technical Guidance document highlights that access to services must be equitable, voluntary and non-discriminatory and that PEPFAR programmes should involve MSM and support existing MSM networks. The guidance identifies core elements of a comprehensive package of HIV-prevention services and encourages PEPFAR programmes to adopt best practices for MSM.

**Elements of a comprehensive package of HIV-prevention services:**

• Community-based outreach;

• Distribution of condoms and lubricants;

• HIV counseling;

• Active linkages to Health Care services and ART;

• Targeted information, education and communication (IEC); and

• STI prevention, screening and treatment.

**PEPFAR identified best practices for HIV prevention among MSM:**

• Involve MSM;

• Ensure confidentiality;
• Provide staff training;
• Collect and use strategic information;
• Link, integrate and co-locate services; and
• Incorporate research advances and new technologies.

**Advancing the Sexual and Reproductive Health and Human Rights of Men who have Sex with Men Living with HIV** *(GNP+/MSMGF, 2010)*

Developed by the Global Network of People living with HIV and the Global Forum on MSM and HIV this policy briefing reviews rights-based principles and examines issues related to sexual and reproductive health of MSM. The document makes a set of recommendations for advancing the sexual and reproductive health and human rights of MSM living with HIV.

**For Sexual Health Advocates and HIV Care Workers**

• Access to affordable legal assistance should be made available to MSM (youth and adult) who experience sexual coercion or violence

• Specific and targeted information on sexual and reproductive health designed to appeal to MSM living with HIV should be made available, including social marketing efforts that reflect the subjective experiences of MSM.

• Availability of safe virtual or physical social spaces for MSM living with HIV should be expanded and promoted.

**For Community and Civil Society Organizations**

• Empowerment of MSM living with HIV should be integral to all sexual and reproductive health programmes and policies – including the establishment of self-help groups and networks of MSM living with HIV.

• Campaigns to decrease stigma, discrimination, and the acceptability of homophobia should be supported and promoted.

• Initiatives that encourage the greater involvement of MSM living with HIV must be supported.

**Trans and intersex people: Discrimination on the grounds of sex, gender identity and gender expression, 2011** *(Agius, 2011)*

This report describes the challenges faced by transgender people and what discrimination on the grounds of gender identity and gender expression looks like. The report looks at the importance of international human rights law and the application of such laws to the rights of transgender people. The report defines *trans* as those people who have a gender identity and/or a gender expression that is different from the sex they were assigned at birth. Transsexual people and transgender people and intersex people are defined as the following:

• Transsexual people identify with the gender role opposite to the sex assigned to them at birth and seek to live permanently in the preferred gender role. This is often accompanied by strong rejection of their physical primary and secondary sex characteristics and a wish to align their body with their preferred gender. Transsexual people might intend to undergo, be undergoing or have undergone gender reassignment treatment.
• Transgender people live permanently in their preferred gender. Unlike transsexuals, however, they may not necessarily wish to or need to undergo any medical interventions.

• Intersex people differ from trans people as their status is not gender-related but instead relates to their biological makeup (genetic, hormonal and physical features) which is neither exclusively male nor exclusively female, but is typical of both at once or not clearly defined as either. These features can manifest themselves in secondary sexual characteristics such as muscle mass, hair distribution, breasts and stature; primary sexual characteristics such as reproductive organs and genitalia; and/or in chromosomal structures and hormones. The term intersex has replaced the term ‘hermaphrodite’, which was used extensively by medical practitioners during the eighteenth and nineteenth centuries.

**The Global HIV Epidemics among Men Who Have Sex with Men (Beyrer, Wirtz, et al., 2011)**

This 2011 WHO report addresses the importance for low and middle-income countries to expand HIV services for MSM in order to improve responses to HIV/AIDS. For selected countries the report provides epidemiological data and information on coverage of HIV services for MSM. It also provides guidance on a minimum package of evidence and rights-based services for prevention, treatment and care of MSM as well as ways to improve environments in order to reach acceptable coverage of these services.

**All policy recommendations are relevant, but specifically:**

• Criminalization of same-sex behavior has profound implications across the spectrum of policies, issues, and programmes for MSM.

• Community participation in every step of programme development and implementation for MSM is crucial: the community is the key partner for this population.

• Laws and policies that promote universal access and gender equality in principle may fail for MSM in practice where homophobic cultural, religious, or political forces are active: good policies for HIV do not guarantee good outcomes for MSM and other sexual minorities.

• Epidemiologic and cost-effectiveness findings are consistent with the rights argument, not counter to it – responding to MSM with high rates of coverage has positive effects for overall HIV trajectories in all four scenarios studied.

**HIV in men who have sex with men (The Lancet, 2012)**

This special edition of the Lancet, released in conjunction with the International AID Conference in Washington in 2012, presented current information on the epidemics of HIV among MSM.

**All papers relevant, but particularly:**

• MSM, AIDS Research activism and HAART

• Global Epidemiology

• Comprehensive clinical care for MSM

• Community leadership

• A call for comprehensive service design
• Stigma and discrimination

Particular quote of interest:

“The high transmission efficiency of HIV in MSM suggests that prevention approaches that can reduce the probability of per-act transmission will probably be needed to produce substantial reductions in new infections. These interventions include anti-retroviral-based approaches.” (p. 76)

**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, 2011** *(WHO, 2011)*

The WHO document on prevention and treatment of HIV and STIs among MSM and transgender people was developed to guide national public health officials and managers of HIV/AIDS and STI programmes, NGOs, CBOs and civil society organizations as well as health workers. The guidelines provide recommendations for regional and country partners on appropriate interventions to address the needs of MSM and transgender people. The overarching principle of this document in respect for and protection of human rights.

**All recommendations are relevant, but specifically:**

d. Legislators and other government authorities should establish anti-discrimination and protective laws, derived from international human rights standards, in order to eliminate discrimination and violence faced by MSM and transgender people, and reduce their vulnerability to infection with HIV, and the impacts of HIV and AIDS.

e. Health services should be made inclusive of MSM and transgender people, based on the principles of medical ethics and the right to health.

f. Offering HIV testing and counseling to MSM and transgender people is strongly recommended over not offering this intervention.

g. Implementing individual-level behavioral interventions for the prevention of HIV and STIs among MSM and transgender people is suggested over not implementing such interventions.

h. MSM and transgender people living with HIV should have the same access to ART as other populations. ART should be initiated at CD4 counts of ≤350 cells/mm3 (and for those in WHO clinical stage 3 or 4 if CD4 testing is not available). Access should also include management of opportunistic infections, co-morbidities and treatment failure.

**Additional resources:**


2. Social Discrimination against Men Who Have Sex with Men- Implications for HIV Policy and Programs *(Ayala, Beck, et al. 2010)*

3. Ensuring human and sexual rights for men who have sex with men living with HIV *(Moody 2009)*


**ADVOCACY AND INTERVENTION TOOLS**

**Toolkit: Scaling Up HIV-Related Legal Services, 2009** (IDLO/UNAIDS, 2009)

The Toolkit was developed for lawyers, legal service managers, government staff, and people planning to establish or expand HIV-related legal services. It is intended to provide guidance on how to improve the quality and impact of HIV-related legal services as well as provide different models and approaches for delivery of such services. The Toolkit identifies guiding principles for HIV-related legal services and provides guidance on how to design local services.

**The Toolkit explores a range of HIV-related legal service models:**

Model 1. Stand-alone HIV-specific legal services

Model 2. HIV legal services integrated into the government’s legal aid agency

Model 3. HIV legal services integrated into the HIV organization or the harm reduction organization

Model 4. HIV legal services provided through community outreach

Model 5. HIV legal services integrated into an organization with a broader human rights focus

Model 6. HIV legal services provided by private sector lawyers on a pro bono basis

Model 7. HIV legal services provided by private lawyers on retainer to community-based organizations

Model 8. HIV legal services provided by a university law school


The United Nations Universal Periodic Review (UPR) process is used to review each UN Member State every four and a half years on the status of human rights in each country. The review process commenced its first cycle in 2008 reviewing 48 countries per year and 192 countries in each cycle. The Toolkit developed by the IPPF and the SRI is intended to assist Civil Society Organizations to participate in the UPR. It provides practical information on how the UPR functions and ways advocates can bring issues of human rights violations to the attention of the UPR.
UN ESCAP Resolution 66/10: Regional call for action to achieve universal access to HIV prevention, treatment, care and support in Asia and the Pacific, 2010 (UN Economic and Social Commission for Asia and the Pacific 66th Session, 19 May 2010)

The United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) was established in 1947 as a regional arm of the UN. ESCAP focuses on issues in the region that are most effectively addressed through regional cooperation. In 2010 ESCAP Resolution 66/10 was adopted by all Member States. The Resolution emphasized the political commitment to meeting the MDGs and the 2001 Declaration of Commitment on HIV/AIDS and called upon members and associate members to accelerate the implementation of the Political Declaration on HIV/AIDS. By adopting the Resolution, Member States agree to meet the commitments and recommendations set forward within it.

All recommendations are relevant, but specifically:

Calls upon all members and associate members:

- To ground universal access in human rights and undertake measures to address stigma and discrimination, as well as policy and legal barriers to effective HIV responses, in particular with regard to key affected populations;

Requests the Executive Secretary:

- To support members and associate members in their efforts to enact, strengthen and enforce, as appropriate, legislation, regulations and other measures to eliminate all forms of discrimination against people living with HIV and AIDS and other key affected populations, and to develop, implement and monitor strategies to combat stigma and exclusion connected with the epidemic

UN ESCAP Resolution 67/9: Asia-Pacific regional review of the progress achieved in realizing the Declaration of Commitment on HIV/AIDS and the Political Declaration on HIV/AIDS (UN Economic and Social Commission for Asia and the Pacific 67th Session, 19–25 May 2011)

Following the 2011 comprehensive review of the progress achieved in realizing the Declaration of Commitment on HIV/AIDS, ESCAP met in Bangkok on 19–25 May 2011 to discuss the region’s commitment to addressing the HIV epidemic. By adopting the Resolution, Member States agree to meet the commitments and recommendations set forward.

All recommendations are relevant, but specifically:

Calls upon members and associate members to further intensify the full range of actions to reach the unmet goals and targets of the Declaration of Commitment on HIV/AIDS and the Political Declaration on HIV/AIDS by:

- Developing national strategic plans and establish strategic and operational partnerships at the national and community levels to scale up high-impact HIV prevention, treatment, care
and support to achieve 80 percent coverage for key affected populations with a view of achieving the universal access target;

- Initiating, as appropriate, in line with national priorities, a review of national laws, policies and practices to enable the full achievement of universal access targets with a view to eliminate all forms of discrimination against people at risk of infection or living with HIV, in particular key affected populations;

- Increasing the effectiveness of national responses by prioritizing high-impact interventions for key affected populations.

**Asia-Pacific High-Level Intergovernmental Meeting on the Assessment of Progress Against Commitments in the Political Declaration on HIV/AIDS and the Millennium Development Goals, 6–8 February 2012: Accelerating regional implementation of the internationally agreed commitments to achieve universal access to HIV prevention, treatment, care and support in Asia and the Pacific** (UN Economic and Social Commission for Asia and the Pacific, 2012)

In February 2012 the Asia-Pacific High-Level Intergovernmental Meeting on the Assessment of Progress against Commitments in the Political Declaration on HIV/AIDS and the Millennium Development Goals was held in Bangkok. The Report and Regional Framework for Action that came out of this meeting were endorsed by ESCAP member states. The Framework called for greater regional cooperation to accelerate progress towards meeting the commitments in the 2011 Political Declaration on HIV and AIDS and the MDGs.

The Meeting noted that there has been an increase in HIV prevalence among MSM in the region, and recognized efforts made to promote greater access to HIV services for MSM by countries such as India, Indonesia, Thailand and Viet Nam. The Meeting acknowledged that transgender people face heightened stigma and discrimination, including a lack of formal recognition of their gender identification. In order to meet global commitments, countries must work to reduce HIV among MSM and transgender populations.

Punitive legal and policy environments that hinder interventions targeting key affected populations are a major constraint in Government’s ability to develop effective HIV responses. This includes laws that criminalize same-sex relations and sex work, as well as laws that impose HIV-related restrictions on entry, stay and residence. Laws criminalizing same-sex sexual activity coupled with stigma and discrimination limit access to HIV services for MSM and create conditions that encourage the spread of the epidemic. Interventions aimed at delivering services to MSM cannot succeed if the intended beneficiaries are fugitives of the law.

**The Regional Framework for Action:**

- 2012 – National multi-sectoral consultations on policy/legal barriers (almost complete for MSM/transgender people)

- 2013 – participatory and inclusive national reviews on implementing the Political Declaration, ESCAP resolutions 66/10 and 67/9

- Early 2014 – Regional overview of progress in meeting the commitments in the Political Declaration, ESCAP resolutions 66/10 and 67/9
• Late 2014 – inclusive regional intergovernmental review meeting of national efforts and progress
• May 2015 – Seventy-first session of ESCAP
• September 2015 – UN General Assembly Review of MDGs


The Heads of the State/Government of the Association of Southeast Asian Nations met in Bali, Indonesia at the 19th ASEAN Summit where this Declaration of Commitment was drafted.

WE, the Heads of State/Government of the Member States of ASEAN

Do hereby declare and renew our commitments to:

17. Commit to work towards zero new HIV infections in ASEAN through the following:
   a. Acknowledge that prevention is the cornerstone of regional, national and international HIV responses and ensure that adequate financial resources are provided for scaling up evidence-based and targeted prevention programmes for key populations-at-risk;
   b. Ensure that national prevention strategies comprehensively target populations at higher risk, such as people who use drugs, sex workers, and men having sex with men, including transgender people, and that systems of data collection and analysis about these populations are strengthened;
   c. Develop and scale up community-led HIV prevention services to reduce sexual transmission of HIV and to address stigma and discrimination;
   f. Encourage and support the active involvement of key affected populations and vulnerable groups including young people, civil society and other community representatives as well as local governments in planning, implementing and evaluating responses;
   h. Address the social protection, sexual and health needs of key affected and vulnerable populations; and
   i. Expand and promote access to HIV testing, including provider-initiated HIV testing that is voluntary, confidential and rights-based.

19. Commit to work toward Zero HIV related Discrimination through the following:
   a. Promote the health, dignity and human rights of people living with HIV and key affected populations by promoting legal, political and social environments that enable HIV responses, including by establishing multi-stakeholder partnerships among the health sector, law enforcement and public security, academia, faith-based leaders, local government leaders, parliamentarians, workplace, civil society and other relevant stakeholders, with a view to removing legal and punitive barriers to an effective response, and to reduce stigma and discrimination;
   b. Initiate as appropriate, in line with national priorities a review of national laws, policies and practices to enable the full achievement of universal access targets with a view of eliminating all forms of discrimination against people at risk of infection, living with HIV and key affected populations;
c. Pledge to eliminate gender inequalities and gender-based abuse and violence especially by protecting and promoting the rights of women and adolescent girls, strengthening national social and child protection systems, empowering women and young people to protect themselves from HIV, and have access to health services, including, inter alia, sexual and reproductive health, as well as full access to, comprehensive information and education;

**ASEAN Human Rights Declaration, 2013** *(The ASEAN Secretariat 2013)*

The Association of Southeast Asian Nations (ASEAN) was established on 8 August 1967.

**WE**, the Heads of State/Government of the Member States of the Association of Southeast Asian Nations (hereinafter referred to as “ASEAN”), namely Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People’s Democratic Republic, Malaysia, the Republic of the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, The Kingdom of Thailand and the Socialist Republic of Viet Nam, on the occasion of the 21st ASEAN Summit in Phnom Penh, Cambodia.

Hereby Declare as Follows:

**Article 2**

Every person is entitled to the rights and freedoms set forth herein, without distinction of any kind, such as race, gender, age, language, religion, political or other opinion, national or social origin, economic status, birth, disability or other status.

**Article 3**

Every person has the right of recognition everywhere as a person before the law. Every person is equal before the law. Every person is entitled without discrimination to equal protection of the law.

**Article 4**

The rights of women, children, the elderly, persons with disabilities, migrant workers, and vulnerable and marginalised groups are an inalienable, integral and indivisible part of human rights and fundamental freedoms.

**Article 29**

1. Every person has the right to the enjoyment of the highest attainable standard of physical, mental and reproductive health, to basic and affordable health-care services, and to have access to medical facilities.

2. The ASEAN Member States shall create a positive environment in overcoming stigma, silence, denial and discrimination in the prevention, treatment, care and support of people suffering from communicable diseases, including HIV/AIDS.

**Redefining AIDS in Asia** *(Report of the Commission on AIDS in Asia, 2008)*

Commissioned by UNAIDS and presented to Mr. Ban Ki-moon on 26 March 2008, *Redefining AIDS in Asia* cemented Asia’s commitment to focusing on MSM and key population focused HIV programmes. The Commission undertook research into Asia’s pandemic and produced recommendations for effective action. The report found that HIV knowledge among surveyed groups of MSM was poor and calls for an urgent scale-up of interventions focused on MSM to prevent the transmission of HIV and to ensure greater access to HIV services.
All findings and recommendations are relevant, but specifically:

- The vast majority of HIV infections in Asia occur during three high-risk behaviours (unprotected commercial sex, the sharing of contaminated injecting equipment, and unprotected sex between men) and one ostensibly 'low-risk' behavior (sex between wives and their HIV-infected husbands).

- Leaders should ensure that an ‘enabling environment’ for prevention, care and impact mitigation is established. Legislatures and institutions must address legal or institutional restrictions that undermine effective programmes. Non-governmental and community organizations, working with Government entities, need to develop strategies to convince the public to support appropriate efforts. Some of those interventions form an intrinsic part of the HIV response and should be funded accordingly.

- HIV-related stigma and discrimination continue to undermine Asia’s response to the epidemic—whether by sanctioning inaction or encouraging the harassment and maltreatment of people affected by the epidemic. Leaders must show greater resolve in challenging the ignorance and prejudice that surround the epidemic, and in supporting legislative and other changes that can reduce stigma and discrimination.

- Engagement of affected communities in planning, implementing and assessing HIV responses is weak. Because of the marginalization of people most at risk and the stigma experienced by people living with HIV, AIDS policies and programmes need to be informed by engagements with the affected communities. At present in Asia, the involvement of such key populations in national HIV responses is weak and, in many places, tokenistic.

- Address legal barriers to effective prevention in most at-risk populations. Sex work, the use of narcotics, and sex between men is illegal in many countries. In Asia, where these behaviours are at the center of the HIV epidemics, such legal provisions should not be allowed to hinder potentially effective efforts to control HIV. Countries should repeal punitive laws that criminalize sex between men.

- Governments are advised to shift their focus from punitive legislation towards policies providing protection for vulnerable people who are at high risk of HIV infection, as well as for service providers and their beneficiaries. Rather than try to address HIV risk and transmission among groups most at risk as a legal issue, health-enhancing services should be made available or improved—such as sexual health services for sex workers and their clients, and men who have sex with men and harm reduction programmes for injecting drug users.

- Governments have a duty to ensure that a comprehensive package and continuation of effective treatment services (that is, first- and second-line antiretroviral drugs) is accessible to those who need it.

- Governments must assume responsibility for ensuring that free antiretroviral therapy is available and accessible to all who need it. Community organizations, including those representing most-at-risk groups and people living with HIV, should be involved in designing, implementing and monitoring this undertaking.
Legal environments, human rights and HIV responses among men who have sex with men and transgender people in Asia and the Pacific – An agenda for action (Godwin, 2010)

In 2010 APCOM and UNDP commissioned an investigation into the legal environments affecting HIV responses of 48 countries in Asia and the Pacific. The study specifically focused on the effects of laws, policies, and practices and the role of CSOs in improving legal environments for MSM and transgender people. The study found that legal environments that marginalize MSM and transgender people contribute to low levels of access to HIV services. The report identified the following as characteristics of a repressive legal environment:

- laws criminalizing male-to-male sex between consenting adults;
- law enforcement practices targeting MSM and transgender people for harassment, assault, extortion and detention, relating to allegations of breach of public order, sex work, trafficking or other offences;
- censorship laws restricting publication of images or messages relating to homosexuality;
- laws that restrict community-based organizations (CBOs) from obtaining legal status;
- absence of legal protections from discrimination on the grounds of sexual orientation or gender identity;
- absence of legal recognition of transgender status, for purposes including identification, passports and travel rights, voting, entitlements to welfare, and the right to marry;
- absence of legal recognition of same-sex relationships. This can result in denial of a range of benefits available to heterosexual partners including participation as next-of-kin in medical decisions, denial of welfare and housing entitlements, and denial of inheritance rights.

All recommendations made by the report are relevant, but specifically:

Governments should:

- Repeal laws that criminalize sex between consenting adults.
- Enact anti-discrimination laws in relation to sexual orientation and transgender status.
- Ensure parliamentarians, police, judges and justice ministry officials have access to evidence-based information and are trained on the epidemiology of HIV and the harmful public health and human rights impacts of punitive laws and law enforcement practices relating to MSM and transgender people.
- Support community-based education and advocacy regarding the human rights of MSM and transgender people, and access to legal aid for MSM and transgender people who have experienced human rights violations.


This report summarizes the presentations made by panellists at this high-level dialogue.
Panellists:

Hon. Michael Kirby, former judge of the High Court of Australia, member of the UNAIDS Reference panel on Human Rights

Hon. Ajit Prakash Shah, Chief Justice, Delhi High Court, India

Hon. Dame Carol Kidu, Minister for Community Development, Papua New Guinea

Shivananda Khan, OBE, Chairperson, APCOM

Dr. Mandeep Dhaliwal, Team Leader, Human Rights, Gender and Sexual Diversity, HIV Group, Bureau of Development Policy, UNDP, New York

John Godwin, Legal Consultant, Asia and the Pacific

**HIV/AIDS among men who have sex with men and transgender populations in South-East Asia – the current situation and national responses (WHO SEARO, 2010)**

In 2010 WHO SEARO undertook an investigation of national responses to HIV/AIDS among MSM and transgender populations in the following countries: Bangladesh, India, Indonesia, Maldives, Myanmar, Nepal, Sri Lanka, Thailand and Timor-Leste. The review found that the scale of national responses did not match the increasing HIV prevalence among MSM and transgender people in Southeast Asia.

**Recommendations made by the report include the following:**

- Governments should be encouraged to repeal laws (if they have not done so already) that impede HIV prevention activities, including laws that criminalize consensual same-sex sexual relations among adults. Ongoing advocacy and policy efforts are integral for effective HIV prevention, treatment and care for MSM and transgender populations.

- Rapidly scale up implementation of various essential and innovative HIV prevention, treatment and care interventions, ensure that human and funding resources are sufficient to meet the needs of MSM and transgender populations, and progress towards Millennium Development Goal 6 (MDG 6) to halt by 2015 and begin to reverse the spread of HIV/AIDS.

- Encourage and provide incentives to existing NGOs to work with MSM and transgender populations in countries where CBOs are non-existent or nascent. Build the capacity of NGOs to implement interventions among MSM and transgender populations.

- Expand the number of surveillance sites in national surveys beyond largely urban areas to improve estimates of national HIV prevalence, contribute towards achieving adequate coverage, and provide evidence-based responses to meet the needs of MSM and transgender populations.

- Support the implementation of social, policy and epidemiological research among MSM and transgender populations.
MSM, HIV and the Law: The Case of Gay, Bisexual and other Men who have Sex with Men (MSM) (Beyrer and Stefan D 2011)

This report presents a review of available literature on MSM, HIV and the Law and makes a series of recommendations from the findings.

All recommendations and key findings are relevant, but specifically:

- Sodomy laws and other anti-gay laws should be repealed.
- Responses to HIV epidemics among MSM in these highly disparate political and human rights environments have to be context specific: one size will not fit all.
- Community participation in every step of programme development and implementation for MSM is crucial: the community is the key partner for this population.
- Although quantification of the impact of structural interventions is important, action is mandated to decrease human rights abuses against MSM on social justice and human dignity grounds alone.
- While the available evidence base does not allow for the direct measurement of laws against homosexuality on HIV rates among MSM, there is compelling and consistent data to demonstrate that legal sanctions and stigma and discrimination limit MSM access to HIV prevention, treatment, and care, and are a barrier to universal access.
- Because HIV infection remains incurable, limits on the right to access prevention and treatment services are limits on the right to life itself, making the repeal of anti-homosexual legislation a life-saving intervention.
- Law enforcement programmes and policies should move from harassment to protection, and to being valued partners in the HIV response, rather than obstacles to outreach, services provision, and public health.

Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region (Winter, 2012)

The aim of this report is to provide a research and strategic information framework to guide governments, civil society, donors and key stakeholders to design and produce relevant research as part of collective effort to reduce the extreme vulnerability of transgender people to HIV, while protecting their rights in the Asia-Pacific Region. A research agenda is proposed that can facilitate reduction in future HIV risk for trans* people, as well as promoting better access to treatment, care and support for transgender persons living with HIV in the Asia-Pacific region.

Trans* women here are birth-assigned males identifying and/or presenting as female, or (in those cultures in which it is accepted that there are more than two genders) as members of another broadly feminised gender. Trans* men are birth-assigned females identifying and/or presenting as male or as another broadly masculinised gender.

Key conclusions from this report include:

- The available Asia-Pacific research on trans* people is patchy. Across the region some research issues, geographical areas and demographic groups are better researched than others. Where research exists the research samples are often small, and focus on narrow sections of transgender communities.
• It is not known how many trans* people (whether trans* men or trans* women) there are region-wide, but it is suspected that there are many, and (as already noted) that far too many are HIV positive. Trans* men appear to be an emerging identity group, about whose well-being, health and healthcare needs little is known.

• It is suspected that involvement in sex work greatly raises HIV risk for Asia-Pacific trans* people, but little is known for sure.

• Many trans* women are quite badly informed about HIV risks, many of those who are well-informed nevertheless engage in unsafe sexual practices. It is not understood why.

• There is clear evidence that health services are often inadequate to trans* people's needs, failing to deliver trans*-competent services in an accessible, affordable and trans* positive way.

Men who have sex with men – the missing piece in the national responses to AIDS in Asia and the Pacific (UNAIDS, 2007)

In 2007, UNAIDS identified MSM-specific services as a key component missing from most national HIV programmes. The report highlighted that MSM are a significant component of the HIV epidemic in the Asia-Pacific region and that stigma and discrimination drive the epidemic. The report found that condom use among MSM was low and that many MSM also have sex with women, indicating a clear risk for female sexual partners of MSM. The report also highlighted the importance of evidence-based national responses, emphasizing the need for countries in Asia to address MSM in these responses.

Treatment Access for Positive MSM in the Asia Pacific (APN+, 2010)

The Asia Pacific Network of People Living with HIV and AIDS (APN+) commissioned a research project in six Asian countries to assess the range and quality of HIV services available for MSM and transgender people living with HIV and structural barriers to treatment access. The countries in which research was undertaken are India, Indonesia, Malaysia, Myanmar, Nepal, and Singapore. Structural barriers identified through this research include availability of treatment, accessibility and economic costs of services.

All research findings are relevant, but specifically:

• Stigma and discrimination, particularly amongst healthcare providers, is a major disincentive to seek treatment.

• Unethical disclosure of sexuality and/or HIV status by healthcare staff perpetuates distrust in local healthcare infrastructure.

• Strong cultural norms pertaining to sexuality impede availability of accurate treatment information, create the fear of disclosure and an increased chance of social isolation and loss of social support.

HIV in Asia – Transforming the agenda for 2012 and beyond (Godwin & Dickinson, 2012)

This report builds on findings from the Report of the Commission on AIDS in Asia in 2008, providing strategic advice on policy, programming and partnership investments for HIV in the
region. In order to develop evidence-based strategic options, an assessment of investments and impacts in the region was conducted. The report addresses issues related to funding and service architecture, and provides strategic options aimed at bilateral and multilateral organizations.

**Organizational Mapping Project of HIV/AIDS Groups for MSM and Transgenders in Insular Southeast Asia, 2010 (APCOM, 2010)**

This project report summarizes activities and finding from a Mapping Project that aimed to:

1. Produce an organizational database of groups, community organizations, and institutions that provide HIV/AIDS services for MSM/TGs in their respective countries or territories, from prevention, treatment, care and support to stigma reduction advocacy work;

2. Aggregate findings on the state of preventive measures for MSM/TGs that are being implemented in the target countries and territories and identify the strengths and weaknesses of these responses, and;

3. Identify MSM/TG-related issues to present a general and qualitative analysis of situation of the community in their respective countries and cull needs for further action.

**Key findings:**

- There appears to be no institution, NGO, community-based organization or hospital or clinic in insular Southeast Asia that can provide a comprehensive response or package of HIV and sexual health services and interventions for MSM/transgender people.

- There is limited or no information on existing HIV/AIDS services for MSM/TGs in Brunei Darussalam and Timor-Leste, raising questions on the response being taken to address the issue in these areas.

- Community response is largely focused on prevention, with peer-led workshops, confidential discussions, online and on-site or venue-based outreach activities, hotlines and anonymous counseling, and the distribution of IEC materials and safer sex paraphernalia as the main forms of interventions.

- Community organizing is strong in Indonesia and the Philippines, very minimal in Malaysia, and almost non-existent in Brunei Darussalam and Timor Leste. In all countries, discriminatory policies and practices, abusive law enforcers, and punitive laws and ordinance hinder community organizing.

- There is difficulty in reaching out to vulnerable sub-groups of MSM/TGs, such as male or transgender sex workers, drug users, and sex workers.

- In all ISEAN countries, political repression, persecution by religious groups, and lack of social acceptance hinder the full inclusion of MSM/TGs in their respective national response and compromise the effectiveness of an already limited range of services.


This report summarizes key epidemiological findings of HIV and AIDS among MSM in Asia and discusses implications of those findings. The report highlights the need for HIV prevention programmes in Asia to target MSM and discusses strategies for reducing HIV transmission among this population.
Additional resources:

1. Regional Youth MSM & Transgender Consultation Meeting Report, September 2010
2. It all starts here: Estimating the size of populations of men who have sex with men and transgender people - (APCOM 2010)
3. HIV and Men who have Sex with Men in Asia and the Pacific - (UNAIDS 2006)
4. Men who have sex with men and transgender populations Multi-City Initiative (USAID/UNDP 2010)


The WHO Regional Offices for the Eastern Mediterranean, South-East Asia and the Western Pacific held a Consultation on HIV, STI and Other Health Needs of Transgender People in Asia and the Pacific from 11 to 13 September 2012 in Manila, Philippines.

Recommendations:

1. Urgent advocacy is needed in order to create a safe, enabling health-care environment to achieve equal access to health for transgender people and realize the goal of zero HIV new infections, zero discrimination and zero AIDS-related deaths in this community.

2. All efforts to address transgender specific issues should be guided by the human rights principles of equality, non-discrimination and meaningful participation and be aimed at community empowerment.

3. Transgender people should be legally recognized as having equal rights and dignity, which are and should be protected under the law, with passage of protective legislation to contribute to a climate of acceptance and equality. Transgender people should have the right to legal recognition of their gender identity, and the recognition of gender status should not depend on medical treatment or surgical procedures.

4. Transgender people should be involved meaningfully in all efforts aiming to address the health needs of transgender people at all levels: policy-making; programming and service delivery; and design, implementation, monitoring and reporting. In order for this to occur specific capacity-building and resources should be made available to strengthen and empower the transgender community and civil society organizations, as well as support groups.

5. Comprehensive standards of care for transgender people and evidence-based guidelines on transgender health should be developed, taking into account holistic needs of transgender people in Asia and the Pacific, including sexual health care, transition health care, hormone therapy, mental/psychosocial health care and general health care. An appropriate agency or group of agencies should be tasked with developing guidance on the:
   - use of hormone treatment for transgender people;
   - use of surgical treatment for transgender people; and
   - management of the specific needs of transgender men, transgender women, and young and older transgender people.
6. Collection of strategic information through transgender-specific HIV/STI surveillance combined with more operational, psychosocial and mental health research, including population estimation, should be conducted with transgender people specific to the Asia Pacific context. This is to measure the levels of HIV and other STIs, risk behaviours, stigma and discrimination, and the impact on the HIV response. Disaggregation of data between transgender people- transgender women (male-to-female), transgender men (female-to-male) and other genders- and men who have sex with men (MSM) was strongly recommended.

7. Efforts to reduce stigma and discrimination against transgender people should be included in national health strategic planning and programming activities. Stigma and discrimination against transgender people by health-care providers should be decreased in public and private settings by increasing knowledge, sensitivity and empowerment in an effort to create an enabling environment.

8. Health-care providers and other care providers should be receive training on nondiscrimination, codes of conduct, quality of care and oversight for service providers to support transgender people.

9. Training institutions for health-care providers, school teachers and administrators, and other stakeholders should ensure that basic content addressing the health needs of transgender people is covered in medical, nursing, law enforcement, social service institutions and other relevant training curricula. Additional efforts should also be made to focus on content to reduce stigma and discrimination by health-care providers in pre-service and post-service training.

10. Efforts should be made to mobilize resources to undertake special surveys and mapping of existing services and to enable and sustain good models of health services for transgender people, which can be replicated across the regions.

Towards Universal Access: Examples of Municipal HIV Programming for Men who have Sex with Men and Transgender People in Six Asian Cities (UNDP, 2011)

Methodology and Implementation Manual for Six Cities Scanning Initiative for Scale-Up of HIV Responses to MSM and TG Persons (Berry, 2010)

In 2010 UNDP commissioned a scan of programme activities addressing HIV and human rights among MSM and transgender people in six cities across Asia and the Pacific. The six cities were Bangkok, Thailand; Chengdu, China; Ho Chi Minh City, Vietnam; Yangon, Myanmar; Manila, Philippines; and Jakarta, Indonesia. The goal of the scan was to stimulate discussion, cooperation and action for scale-up of HIV services for MSM and transgender people, and to gather information on organizational relationships to assist local leaders in identifying next steps for scale-up of responses. The aim of this study, beyond its use in the six cities, was to identify activities conducted by successful HIV programmes working with MSM and transgender people to aid in future programme design.

Ensuring universal access to comprehensive HIV services for MSM in Asia and the Pacific, 2009 (amfAR, 2009)

An assessment to identify priorities for operations research was undertaken in 2009 to better understand effective models for HIV prevention, treatment, care, and support among MSM in
Asia and the Pacific. Prevention-to-care approaches include health promotion, behavior change communication, emotional and social support, and clinical care.

**A conceptual model for an HIV prevention-to-care continuum for MSM includes the following:**

- Improving knowledge through community education, outreach services and promoting the effective use of condoms and other prevention tools;
- Promoting behavior change through community mobilization, health education workshops, seminars, support groups, cultural change;
- Providing STI diagnosis and treatment through accessible clinical services that help to reduce population-level rates of STIs, individual susceptibility to HIV infection and general health;
- Enabling people to know their HIV status through effective VCT services that provide pathways to ongoing prevention support for all;
- HIV treatment, care and support that provides for the social and emotional needs of people with HIV; and,
- Access to other social, legal and welfare services that affect other drivers of the epidemic: poverty, unemployment, poor mental health, marginalization and lack of education.

**Developing a Comprehensive Package of Services to Reduce HIV among Men who have Sex with Men (MSM) and Transgender (TG) Populations in Asia and the Pacific – Regional Consensus Meeting (Bangkok), 2009 (UNDP 2009)**

This report summarizes the presentations and group-work at a regional consensus meeting held to develop a comprehensive package of programmes and services for MSM and transgender people in Asia.

Elements of the Comprehensive Package agreed to:

- **HIV Prevention**
  - Peer outreach, peer education and drop-in services
  - Promotion of, and access to the means of prevention
  - STI prevention and treatment
  - HIV counseling and testing
- **Access to HIV Treatment, Care and Support**
- **An Enabling Environment for prevention and care services**
- **Strategic Information**
Health sector response to HIV/AIDS among MSM, 2009, Western Pacific Region (WHO, 2009)

In February 2009 the World Health Organization Regional Office for the Western Pacific held a consultation in Hong Kong to discuss ways of scaling up the health sector response to HIV and AIDS among MSM and transgender people. The consultation identified action areas necessary for strengthening the response through the strategic collection and use of information, advocacy for a supportive environment, and promotion of a single comprehensive package of services for MSM and transgender people. The report recognized that laws and policies can hinder a supportive environment and made the following recommendations for a supportive legal and regulatory environment.

This collaboration identified a comprehensive package of service and programmes that would support HIV prevention and care among MSM and transgender people:

- free condom and lubricant distribution
- outreach projects
- targeted media campaigns, including use of the internet
- HIV and sexual health services including:
  - HIV counseling, testing and treatment
  - STI screening & treatment
  - screening and treatment for genital & anorectal problems
  - Hep B testing & vaccination
  - Hep C testing
  - Hormonal management & monitoring for transgender people
- services for HIV-positive MSM and transgender people
- HIV treatment
- HIV prevention services, including:
  - family planning for female partners
  - care, counseling & testing for sero-discordant couples
  - psychosexual counseling
  - psychosocial counseling, including substance use issues

The report identifies the following essential supportive activities to implement the comprehensive package of services:

- capacity building for health-care workers, CBOs
- mobilization by CBOs of their target community
- advocacy
• strategic planning
• attention to the enabling environment to remove access barriers

**Priority HIV and sexual health interventions in the health sector for MSM and TG people in the Asia-Pacific Region, 2010 (WHO, 2010)**

This report describes health sector interventions needed to achieve universal access to HIV and STI prevention, treatment, care and support for MSM and transgender people. During a Regional Consensus Meeting held in Bangkok in 2009, a Consensus Statement on the Comprehensive package of HIV interventions and sexual health services for MSM and transgender people in Asia and the Pacific was agreed upon (UNDP, 29 June – 1 July 2009). The report highlights the responsibility of the health sector, in collaboration with other sectors and the community to develop and support accessible, acceptable and equitable comprehensive programmes and service delivery models that address the needs of MSM. WHO, UNDP, UNAIDS, UNESCO and APCOM are all of the view that the meaningful involvement of MSM and transgender people is central to an effective, rights-based HIV response.

All recommendations set out in this report are relevant, but specifically:

• HIV prevention interventions in the health sector should include:
  • interventions aimed at changing behavior;
  • those aimed at addressing cultural norms, social attitudes and behaviours that may increase people’s vulnerability to STI and HIV infection; and
  • biomedical interventions such as promotion of condoms, lubricants, and clean needles and syringes.

• The health sector, as part of a multisectoral response, should provide guidance on sex education, school-based HIV education, mass media communications and educational messaging, and other behavior change interventions designed to increase the demand for and use of condoms and lubricant by MSM. Health facilities in contact with MSM should actively promote effective and consistent condom and lubricant use.

• HIV prevention programmes should accord high priority to transgender people in all settings through specially targeted programmes. In addition to the full range of prevention interventions, these programmes need to place special emphasis on developing advocacy skills related to the special needs of transgender people, self and community empowerment, psychosocial support and counseling, and capacity building.

• MSM services should generally be provided in mainstream STI clinics rather than in stand-alone MSM clinics, which may increase stigma and discourage attendance. Conversely, it may be deemed preferable to have MSM-specific facilities in some local contexts, at least as referral or centers of excellence.

• Healthcare practitioners at all levels of service provision should be sensitized to the needs of MSM and transgender clients.

• Priority must be given to engaging and maintaining MSM in HIV care with services that offer an environment in which stigma and discrimination are minimized. MSM should be given supportive access to the full range of services in which staff are sensitized to their issues and needs.
**International Union against Sexually Transmitted Infections (IUSTI Asia Pacific Branch) Clinical Guidelines for Sexual Health Care of MSM (Bourne, 2005)**

The Clinical Guidelines for Sexual Health Care of MSM acknowledge that clinical environments can be threatening to MSM and transgender people and that these populations often withhold information that may be critical to care or avoid medical care altogether due to fear of discrimination. This document outlines various clinical guidelines for working with MSM and transgender people.

**Health care services guidelines for MSM and transgender people:**

- Employment of qualified MSM & transgender staff at the clinic where possible;
- A workplace free from discrimination and harassment for MSM & transgender staff;
- Policies for non-discriminatory service delivery;
- Complaints procedure for anti-discrimination policies;
- MSM & transgender sensitive clinic reception procedures and staff;
- Culturally competent MSM & transgender issues services;
- Confidentiality as a cornerstone of sexual health care;
- Privacy;
- MSM & transgender youth and children issues; and
- MSM & transgender community input to board of directors.

**Additional resources:**

1. Asia Regional Consultation on MSM HIV Care and Support Meeting Report, 2009 (UNDP/USAID 2009)

2. Asia Regional Workshop on HIV Programming for Men who have Sex with Men (MSM) and Transgendered Persons (TG)- HIV Prevention, Care, and Treatment for MSM and TG: A Review of Evidence-Based Findings and Best Practices (PEPFAR 2012)
Legal environments, human rights and HIV responses among men who have sex with men and transgender people in Asia and the Pacific - An agenda for action, 2010 (Godwin, 2010)

According to this report consensual sex between adult men in Brunei is illegal under Penal Code Section 377, carnal intercourse against the order of nature with a penalty of up to a 10 year prison sentence. Sharia law also operated, which criminalises sexual relations between male persons.

Legal protections against HIV-related human rights violations, 2013 (UNDP, 2013), (Government of Brunei 2010)

This report identifies relevant provisions of Part IV of the Brunei Infectious Diseases Act 2010 which relate to HIV. It is reported that the Brunei provisions are very similar to those in the Singapore Infectious Diseases Act 1977. Part IV of the Brunei Infectious Diseases Act 2010 states the following:

Section 23:
1. The Director-General may require any person who has been diagnosed as having AIDS or HIV Infection:
   a. to undergo counselling by a registered medical practitioner; and
   b. to comply with such precautions and safety measures as may be specified by the Director-General.
2. Any person who fails or refuses to comply with subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding $10,000, imprisonment for a term not exceeding 2 years or both.

Section 24:
1. 1. A person who knows that he has AIDS or HIV Infection shall not have sexual intercourse with another person unless, before the sexual intercourse takes place, the other person:
   a. has been informed of the risk of contracting AIDS or HIV Infection from him; and
   b. has voluntarily agreed to accept that risk.
2. Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding $10,000, imprisonment for a term not exceeding 2 years or both.
3. For the purposes of this section, a person shall not, only by reason of age, be presumed incapable of having sexual intercourse.
4. For the purposes of this section and section 25, a person shall be deemed to know that he has AIDS or HIV Infection if a serological test or any other prescribed test for the purpose of
ascertaining the presence of HIV Infection carried out on him has given a positive result and the result was communicated to him.

5. In this section, “sexual intercourse” means:
   a. sexual connection occasioned by the introduction into the vagina, anus or mouth of any person of any part of the penis of another person; or
   b. cunnilingus.

Section 25:

1. Any person who knows that he has AIDS or HIV Infection shall not-
   a. donate blood at any blood bank in Brunei Darussalam; or
   b. do any act which is likely to transmit or spread AIDS or HIV Infection to another person.

2. Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding $50,000, imprisonment for a term not exceeding 2 years or both.

Section 26:

1. Any person who, in the performance or exercise of his functions or duties under this Act, is aware or has reasonable grounds for believing that another person has AIDS or HIV Infection or is suffering from a sexually transmitted disease or is a carrier of that disease shall not disclose any information which may identify the other person except:
   a. with the consent of the other person;
   b. when it is necessary to do so in connection with the administration or execution of anything under this Act;
   c. when ordered to do so by a court;
   d. to any medical practitioner or other health staff who is treating or caring for the other person;
   e. to any blood, organ, semen or breast milk bank that has received or will receive any blood, organ, semen or breast milk from the other person;
   f. for statistical reports and epidemiological purposes if the information is used in such a way that the identity of the other person is not made known;
   g. to the victim of a sexual assault by the other person;
   h. to the Controller of Immigration for the purposes of the Immigration Act (Chapter 17);
   i. to the next-of-kin of the other person upon the death of such person;
   j. to any person or class of persons to whom, in the opinion of the Director-General, it is in the public interest that the information be given; or
   k. when authorised by the Minister to publish such information for the purposes of public health or public safety.
2. Any person who contravenes or fails to comply with subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding $2,000, imprisonment for a term not exceeding 3 months or both.

**Brunei Report NCPI, 2012** *(Government of Brunei Darussalam, 2012)*

Brunei’s National Commitments and Policies Instrument Part A was completed by the Department of Health Services, Part B was not completed. This section reported the following:

- Brunei has not developed a national multisectoral strategy to respond to HIV.
- The country does not have a general (i.e., not specific to HIV-related discrimination) law on non-discrimination.
- Sodomy and cross dressing is illegal in the country. As such, these groups are hidden and therefore more difficult to target MSMs and transgendered people for HIV prevention programmes.
- All persons who are non-citizens or permanent residents require a work permit to work in Brunei and pre-requisite for a work permit is a negative HIV test.
- Prostitution and sex work is illegal in the country.

**Brunei Darussalam UNGASS Report, 2012** *(Government of Brunei, 2012)*

Brunei’s Global AIDS Progress Reporting 2012 and Universal Access in the Health Sector Reporting identified that MSMs are a difficult group to target for surveillance and prevention due to the fact that homosexual acts are illegal and that there are no formalized groupings or associations that deal specifically with MSM issues.

**NATIONAL RESPONSE**

**Brunei Darussalam UNGASS Report, 2012** *(Government of Brunei, 2012)*

The report highlights Brunei Darussalam’s commitment towards achieving the targets of the Millennium Development. The report does not however outline strategies specifically targeting MSM or transgender people. It states the following:

- His Majesty’s Government provides free and comprehensive health care to all citizens and permanent residents of Brunei Darussalam. This includes all aspects of prevention, care, treatment and support for HIV although there is no separate budget allocated for HIV/AIDS specifically.
- First-line antiretrovirals are readily provided to citizens and permanent residents.
- Although available, second and third-line have to be applied for on an individual basis.
Organizational Mapping Project of HIV/AIDS Groups for MSM and Transgenders in Insular Southeast Asia (APCOM, 2010)

This report presents the finding from a mapping project aimed at identifying HIV/AIDS services for MSM and transgender people and scoping the capabilities and engagements of existing organisations. The mapping reported finding limited or no information on existing HIV/AIDS services for MSM and transgender people, identifying one hospital with VCT and treatment facilities and no NGOs or CBOs.

HIV and men who have sex with men: Country Snapshots- Indonesia, 2012 (UNDP/UNAIDS, 2012)

Key legal information identified:

- Sex between males is legal, except for MSM and waria who live in provinces or districts that have Sharia-based ordinances. Homosexual acts are only officially criminalized in the Province of South Sumatera (including the Municipality of Palembang). An anti-homosexuality ordinance in Aceh was never enacted though it is believed that the present governor is more religiously conservative.

- The legality of sex work is difficult to determine since crimes against decency or morality are sometimes applied to sex workers. Provinces or districts with Sharia-based ordinances generally have laws that forbid sex work.

- There are no laws that explicitly aim to protect MSM, waria, or people living with HIV. However, the Indonesian Constitution does describe every citizen’s “right to a life of well-being in body and mind, to a place to dwell, to enjoy a good and healthy environment, and to receive medical care.”

- The Department of Social Affairs classifies waria as mentally handicapped, a designation that is suspected to restrict employment opportunities, though evidence for this is limited.

- The law allows post-operative waria and intersex people to change gender on official documents and records, though waria often do not have legal documentation. In Jakarta, 70 percent of waria were found not to have any kind of identification card.

- MSM, waria, and HIV outreach workers have reported difficulties with law enforcement authorities. These include police violence and interpretation of some laws to arrest MSM and waria.

- There is no legal protection against sexual assault or rape for men.

- The legal system has been classified as “neutral” for MSM/TG in two UN reviews.
State-sponsored Homophobia- a world survey of laws prohibiting same sex activity between consenting adults, 2010 (Ottosson, 2010)

The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) have summarised laws prohibiting same sex activity in 76 countries. In Indonesia same-sex sexual activity is legal; the following explains the current legal situation:

“Same-sex relations are not prohibited according to the national Penal Code. The only provision to deal with such relations is article 292 which prohibits sexual acts between persons of the same sex, if committed with a person under the legal age. However, in 2002 the national parliament gave the Aceh province the right to adopt Islamic Sharia laws. Such laws do apply to Muslims only. Moreover, for example the city of Palembang in South Sumatra has introduced jail time and hefty fines for same-sex relations.”

Legal environments, human rights and HIV responses among men who have sex with men and transgender people in Asia and the Pacific- An agenda for action, 2010 (Godwin, 2010)

According to this report:

In September 2009, the legislature of Aceh passed the Qanun Jinayat (Islamic Criminal Law). Article 33 of the proposed law provides for penalties for homosexual acts of 100 lashes, a fine of 100 grams of gold or eight months imprisonment. The Ordinance was enacted by the Aceh Legislative Council. Approval from the Governor of Aceh is mandatory before a provincial law can be formally enacted. Once the Qanun Bill has been accepted by the Governor of Aceh, it remains subject to the final endorsement of the Minister of Home Affairs of the national government as a prerequisite to entering into force. The local Governor has not endorsed the bill and has suggested revisions. It has been reported that human rights organizations are seeking to challenge the validity of the Qanun Jinayat in the Constitutional Court. Despite the lack of confirmation of the Qanun Jinayat, there are reports of Sharia police harassing sexual minorities in Aceh. Sharia police reportedly harass transgender people who work at beauty parlours, on the grounds that Sharia law prohibits men working in female environments.

It is possible for inter-sex and post-operative transsexuals to legally change their sex on identity cards. Although a legal mechanism to change sex exists, it requires documentation that many waria do not have. Waria are often unable to acquire basic legal documentation. The Department of Social Affairs classifies waria as mentally handicapped under the national ‘cacat law’ (Mentally Disabled Law). This effectively denies waria the right to work or reduces them to working in low-paid jobs in the hidden economy.

Other Laws:

National legal framework for district support to community-based responses

Presidential Decree No. 75/2006 defines the powers of the National AIDS Commission and the AIDS Commissions operating at the provincial and municipal or district-levels. In some localities, this has provided a framework in which local government health authorities have been able to assist in the development of CBOs that focus on HIV responses for MSM and transgender people. 194 Devolution of legislative powers in Indonesia is resulting in a diversity of local responses to HIV.

Rape of males

There is no protection against sexual assault or rape for homosexual men. The Indonesian Penal Code rape provisions (Art. 285) only protect women.
**Pornography Law**

The Pornography Law of 2008 defines pornography broadly to include any picture, photograph, conversation, body language or other messages through various forms of communication and/or public performance that contain obscenities that violate the norms of morality. Educational materials for HIV prevention and other purposes are not intended to be within the definition of pornography. Nonetheless, there are concerns that this definition is so broad that the law may act as a disincentive to use of explicit images or messages in health promotion materials that relate to homosexuality. Indonesia’s Constitutional Court has upheld the validity of the Anti-Pornography Law.

**Broadcast standards**

Guidelines for Broadcast Behavior and Broadcast Program Standards were issued by the Indonesian Broadcast Commission in 2004. Article 49 on Homosexuals/Lesbians states: Broadcasting institutions can broadcast programmes which report, discuss, or contain a story on homosexuality and lesbian [sic], within the following parameters: the programmes may not promote and depict homosexuality and lesbian as an acceptable practice within society; except for news programmes, those discussing or containing a story on homosexuality and lesbian may only be broadcast between 22.00 to 03.00 hours of the time zone of the broadcasting station. Transgender people are not mentioned in Article 49. Transgender people are protected from humiliating depiction in Article 51 of the Guidelines.

### NATIONAL RESPONSE

**The 1945 Constitution of Indonesia** *(Parliament of the Republic of Indonesia, 2002)*

All articles are relevant, but specifically:

**Article 27**

1. All citizens shall be equal before the law and the government and shall be required to respect the law and the government, with no exceptions.

2. Every citizen shall have the right to work and to earn a humane livelihood.

**Article 28A**

Every person shall have the right to live and to defend his/her life and existence.

**Article 28B**

1. Every child shall have the right to live, to grow and to develop, and shall have the right to protection from violence and discrimination.

**Article 28C**

1. Every person shall have the right to develop him/herself through the fulfilment of his/her basic needs, the right to get education and to benefit from science and technology, arts and culture, for the purpose of improving the quality of his/her life and for the welfare of the human race.
Article 28D

1. Every person shall have the right of recognition, guarantees, protection and certainty before a just law, and of equal treatment before the law.

2. Every person shall have the right to work and to receive fair and proper remuneration and treatment in employment.

3. Every citizen shall have the right to obtain equal opportunities in government.

4. Every person shall have the right to citizenship status.

Article 28G

1. Every person shall have the right to protection of his/herself, family, honour, dignity, and property, and shall have the right to feel secure against and receive protection from the threat of fear to do or not do something that is a human right.

2. Every person shall have the right to be free from torture or inhumane and degrading treatment, and shall have the right to obtain political asylum from another country.

Article 28H

1. Every person shall have the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment, and shall have the right to obtain medical care.

2. Every person shall have the right to receive facilitation and special treatment to have the same opportunity and benefit in order to achieve equality and fairness.

3. Every person shall have the right to social security in order to develop oneself fully as a dignified human being.

Article 28I

1. The rights to life, freedom from torture, freedom of thought and conscience, freedom of religion, freedom from enslavement, recognition as a person before the law, and the right not to be tried under a law with retrospective effect are all human rights that cannot be limited under any circumstances.

2. Every person shall have the right to be free from discriminative treatment based upon any grounds whatsoever and shall have the right to protection from such discriminative treatment.

3. The cultural identities and rights of traditional communities shall be respected in accordance with the development of times and civilisations.

4. The protection, advancement, upholding and fulfilment of human rights are the responsibility of the state, especially the government.

Article 28J

1. Every person shall have the duty to respect the human rights of others in the orderly life of the community, nation and state.

This document contains a comprehensive set of strategies and prioritized activities and is in line with Indonesia's Mid-Term National Development Plan 2010 – 2014. Prior to developing this document, a Mid-Term Review was conducted to evaluate the implementation of the National HIV and AIDS Action Plan 2007 – 2010. Important findings from this review, as well as the policy guidance from the Mid-Term National Development Plan 2010 – 2014 were used by representatives of both government and non-government groups to develop strategies and plans for future implementation.

Relevant strategies, actions and targets for responding to HIV and AIDS include:

- To increase MSM coverage which is still too low, a comprehensive programme will be formulated and implemented with active participation of the MSM community.

- The main populations to be reached and served in prevention programmes are: injecting drug users, sex workers, and men who have sex with men (MSM).

- Effective work with MSM will be important to reverse the rising trend of the AIDS epidemic. Coverage and programme targets will need to increase 3 to 8 times over before the transmission of HIV among MSM and their intimate partners can be contained.

- By 2014 programme implementation is expected to cover at least 80 percent of key populations. To achieve universal access targets by 2014 annual targets have been set to ensure that key populations and people living with HIV can access prevention, care, support, and treatment services that they need.

- By 2014 it is hoped that at least 60 percent of the key populations should have reduced their risk behaviour and that they will continue safe practice into the future. At least 60 percent of key population engaging in unsafe sexual intercourse will use condom consistently.

<table>
<thead>
<tr>
<th>Population</th>
<th>Baseline 2009</th>
<th>Target 2010</th>
<th>Target 2011</th>
<th>Target 2012</th>
<th>Target 2013</th>
<th>Target 2014</th>
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<td>129,420</td>
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<td>106,650</td>
<td>214,910</td>
<td>324,585</td>
<td>544,450</td>
<td></td>
</tr>
</tbody>
</table>

HIV and men who have sex with men: Country Snapshots- Indonesia, 2012 (UNDP/UNAIDS, 2012)

Community-based Responses:

- MSM CBOs conduct a wide range of HIV-related activities and services, including: peer outreach and education; condom and lubricant distribution; social marketing; health
counselling; community awareness events; health hotlines; advocacy; peer support for people living with HIV (PLHIV); voluntary counselling and testing (VCT) services; and STI clinic and VCT referral.

• Community organizing among MSM and waria was recently described as being “strong” in Indonesia.

National MSM Networks:

• There are three national networks that work for and involve MSM and transgender people: Aliansi Satu Visi, a network made up of several CBOs and non-governmental organizations (NGOs) that work on sexual and human rights issues, including increasing access to crisis centres for gender-based violence victims; Indonesia LGBTIQ forum, a network of CBOs and NGOs that work on human rights issues that concern MSM and transgender people; and Gay-Waria-MSM (GWL-INA), a network of CBOs and NGOs that work on HIV and human rights issues that concern MSM and transgender people.

• GWL-INA was heavily involved in drafting the National HIV and AIDS Strategy and Action Plan for 2010 to 2014.

Legal environments, human rights and HIV responses among men who have sex with men and transgender people in Asia and the Pacific- An agenda for action, 2010 (Godwin, 2010)

According to this report:

The National Network of MSM, Waria and Other Stakeholders (GWL-INA) sits on the National AIDS Commission. Arus Pelangi is the Indonesian Federation of Lesbian, Gay, Bisexual and Transgender Communities. Arus Pelangi campaigns for LGBT issues, with a focus on issues affecting human rights. Arus Pelangi advocates and lobbies with governmental institutions in order to increase the level of formal protection of LGBT people through government policies and the law.

Arus Pelangi is involved in advocacy related to legal representation and campaigns for the amendment of discriminatory public policies.

GAYa NUSANTARA is another CBO that conducts advocacy on MSM and waria issues.

Indonesian Waria Communication Forum (Forum Komunikasi Waria Indonesia–FKWII) advocates for legal recognition of transgender people. In 2009, FKWII reached an agreement with House of Representatives’ Commission IX, which oversees citizenship, health, labor and transmigration affairs for protection from discrimination. The Commission asked the manpower minister to pay serious attention to complaints about employment discrimination and has facilitated meetings between ministry officials and waria groups.

CBO success in challenging police harassment and violence towards waria sex workers:

Surabaya

After a spate of violent police operations targeting sex workers in 2008, the Surabaya Association of Waria (Perwakos) approached a local legal aid organization (LBH Kosgoro) and an HIV NGO (Genta Foundation) working with female sex workers for assistance in advocacy with authorities. A meeting was held with officials from Provincial Social Services, regular police officers from different levels (provincial, metropolitan and suburban) and from the municipal police. The result
was that police clean-up operations were carried out without physical or sexual violence for some months. However, the violence happened again in 2009, and a similar mediation meeting was facilitated by the same organization with the same institutions, which succeeded in preventing further violence.

**Denpasar, Bali**

The Ubung area in the eastern part of Denpasar is known to be a waria hangout. Many waria rent rooms at boarding houses around the bus terminal area. In 2004, there was an attempt by the local ward authorities to force waria to leave their boarding houses and move elsewhere. Two officers of GAYa Dewata, an LGBT organization, together with local waria, engaged in advocacy with civil administration authorities, especially with social services, starting from the ward level and going to higher sub-district, municipal and provincial levels. This resolved the problem and a decision was made to issue temporary identity cards to waria, many of whom came from other cities or provinces.


The GWL-INA is a national network of MSM and Waria community organisations and other stakeholders. The GWL-INA was established in May 2007 to support the scale up of HIV prevention and care programmes for MSM and Waria. It acts as advocate and coordinating body for the MSM and Waria communities and many of their organisations; working to ensure that the issues and needs of MSM are reflected in the development of domestic HIV and AIDS related programme and policy development. The GWL-INA has the full endorsement of the Indonesian National AIDS Commission (KPR).

The establishment of the GWL-INA network is considered a key event in the national gay, MSM and waria movement. When the GWL-INA was first established, very little programming existed specifically for gay men, MSM and waria. Now, for the first time ever, these groups have a voice in the coordination of Indonesia's national HIV response. As a member of the National AIDS Commission (NAC), the network has gained the respect and attention of the Indonesian government and has developed a National Strategic Action Plan that complements the existing 2010–2014 AIDS National Strategy and Action Plan, providing clear guidance for the development and implementation of HIV and AIDS response programmes targeting gay, MSM and waria. With other civil society groups, the network has also launched a joint advocacy campaign on the rights of people living with HIV (PLHIV).

**Organizational Mapping Project of HIV/AIDS Groups for MSM and Transgenders in Insular Southeast Asia, 2010** (APCOM, 2010)

This report provides an extensive list of MSM and transgender organisations in Indonesia, providing detailed contact information and services they each provide. The following are the names of a few organisations that specifically work in the area of stigma reduction and advocacy through varied activities including group discussions, social meetings, support for other institutions, research, education, collaboration with stakeholders and local and national networking:

- Gaya Nusantara
- MWGJ (MALE WORKING GROUP JAMBI)
- Yayasan SIKOK Jambi
MALAYSIA

HIV and men who have sex with men: Country Snapshots - Malaysia, 2012 (UNDP/UNAIDS, 2012)

Key legal information identified:

- Sex between males is illegal under section 377A and 377D of the Penal Code. Muslim MSM are also subject to Sharia law, which forbids sex between men.

- Sex on premises venues (e.g., saunas) are illegal.

- There are no legal protections for MSM or transgender people and transgender people cannot change their sex or gender on official documents.

- Incidents where MSM, transgender people, and HIV outreach workers were harassed by law enforcement agencies are well documented. There are reports of condoms and lubricant seized from MSM venues; and condoms have been used as evidence of prostitution or otherwise ‘deviant behaviour.’ In 2002, Human Rights Watch reported that the Government of Malaysia forced HIV groups to stop distributing condoms.

- Legal reviews conducted by the UN have found that Malaysia is ‘prohibitive in high intensity’ and ‘highly repressive’ for MSM and transgender people.

Legal environments, human rights and HIV responses among men who have sex with men and transgender people in Asia and the Pacific - An agenda for action, 2010 (Godwin, 2010)

According to this report:

There have been a number of prosecutions for sodomy in the last decade, before which Section 377A of the Penal Code was not commonly enforced. The legal environment for MSM and transgender people in Malaysia is considered to have become more punitive over the last decade, with adverse consequences for HIV prevention and peer support services. Media coverage of prosecutions has contributed to a climate in which MSM fear public visibility. While prosecutions for sodomy generally only occur in exceptional circumstances, police harassment of MSM and
transgender people is frequently reported and there have been a number of prosecutions for gross indecency. There have been documented incidents of police harassment of MSM in public parks and police raids of social venues over the last decade. There are reports of harassment and abuse of transgender people when detained by police. Some report that they have been victims of sexual violence by police.

Transgender persons (mak nyah) have been detained and prosecuted under the Minor Offences Act 1955 for “indecent behavior” and often Sharia law has been applied to Muslim citizens to punish cross-dressing with fines. Sharia law is recognized in the states of Malaysia as a personal law applying exclusively to Muslims and applied by ‘Syariah’ courts. Offences are defined by the Syariah Criminal Code Enactment to include offences for male-to-male sex and cross-dressing. In 1983, the Conference of Rulers in Malaysia decided that a fatwa prohibiting sex change operations should be imposed on all Muslims, with the exception of hermaphrodites. Cross-dressing is also prohibited by fatwa. Thus, Muslim mak nyahs could be charged in the Syariah Court for violating the tenets of Islam. Muslim surgeons are also prohibited from carrying out sex-change operations.

Sex reassignment surgery and reassignment therapy are legal in Malaysia, although transgender people cannot change their identity cards to reflect their new gender. Without proper documentation, transgender people face harassment and persecution from the police and religious authorities, are refused employment and are deprived of the right to marry. In 2004, a man who had undergone a sex change and was previously a woman lost his bid to the Ipoh High Court to be legally recognized as a male.

Other Laws:

Censorship

Strict censorship laws restrict depiction of homosexuality in the media or on films. The Garis Panduan Penapisan Filem (Film Censorship Guidelines) discourage positive portrayals of homosexuality. Recent revisions of these guidelines in March 2010 have indicated that depictions of transgender persons (mak nyah) were permissible in films but required that they became “normal” (i.e. heterosexual) in the end or died somewhere in the storyline insinuating a form of divine retribution.

An independent review of HIV prevention for MSM in Kuala Lumpur observed:

While service organizations are needed, the effectiveness of their work is limited by government censorship and control—explicit or implicit—of safer-sex information, particularly that which is targeted at the MSM community. Penal code sections 292, 293, 377A, and possibly others are broadly used to control information about homosexual sex, and effective HIV prevention must speak frankly about sexual activity. Section 292 criminalizes the circulation of “obscene” materials; Section 293 extends and harshens this criminalization around access to these materials of young persons “under the age of twenty years”...

While these laws are rarely used for prosecution, their existence provides government officials the authority to question the dissemination of MSM-targeted safer-sex information, the public distribution of condoms in businesses or elsewhere, and the operation of gay-targeted businesses. One case in point is the difficulty of distributing condoms at gay venues. Business owners fear harassment or adverse repercussions for “publicly announcing” they have a gay clientele by housing MSM-targeted materials.

Additional resources:

1. South East Asia Legal Environments for Men who have Sex with Men and Transgender People, (APCOM 2012)
Malaysia National Strategic Plan, 2011-2015 (Ministry of Health, 2011)

The Government of Malaysia is concerned by the continued spread of HIV in the country, particularly amongst most at risk populations (MARPs) identified mainly as injecting drug users (IDUs), sex workers (SW), transgender persons (TG) and men who have sex with men (MSM).

Key challenges identified:

- Mobilising MARPs, vulnerable populations and related civil society organisations to access and utilise the many available public HIV related healthcare facilities and service points remains an ongoing challenge.

- Stigma and discrimination continues to be an issue, however it has lessen now. Nevertheless, it not only affects PLHIV but to those around them, and also affect the progress and successful implementation of HIV prevention, treatment, care and support programmes. Vulnerable populations and MARPs may encounter incidences of discriminatory practices in public and private workspaces as well as during the implementation of HIV programmes, which inevitably might complicate the outcomes of impact of such programmes.

Key strategies:

- HIV prevention efforts in 2011 – 2015 will focus on addressing the three primary prongs of HIV transmission in Malaysia, namely the sharing of needles and syringes through injecting drug use, unprotected sexual intercourse, amongst most at risk and vulnerable populations and advocacy amongst the most-at-risk youth populations.

Strategy 1.2: Prevention of HIV transmission through unprotected sex:

Key Activities:

a. Review existing strategies including awareness programmes and activities to encourage and facilitate behavioural change among MARPs.

b. Build an enabling environment for behavioural change through economic, welfare and religious aid.

c. Raise awareness and build knowledge and awareness on HIV and other diseases (e.g. TB and STIs), among MARPs, married and unmarried couples, and members of most at risk youth and their sexual partners.

d. Improve and strengthen VCT, STI and SRH services to all MARPs, including counselling for married and unmarried couples.

e. Raise awareness and understanding of HIV and STIs, support and promote the appropriate use of condoms and lubricants when engaged in sexual activities, particularly among MARPs, their partners and/or clients.

f. Develop and scale up services on sexual reproductive health, counselling and treatment related to STIs, HIV and AIDS to ensure universal coverage.
g. Expand and scale up HIV prevention programming incorporating a comprehensive package of services for MSM and transgender persons.

h. Strengthen the participation of national and local partners in the provision of HIV prevention programmes targeting migrant workers and refugees.

i. Implement targeted behaviour change communication interventions to promote safer sexual behaviour, address negative gender values, and promote male responsibility for positive health.

j. Develop strategies to address barriers and challenges which prevent the efficient and effective delivery of HIV prevention services to MARPs especially MSM, SW and TGs.

Strategy 3: Increasing the access and availability of care, support and social impact mitigation programmes for People Living with HIV and those affected:

Key Activities:

a. Improve coordination, linkages and referral among social, health and community based services at the community level.

b. Strengthen the quality and impact of PLHIV and MARPs support groups and networks.

c. Link PLHIV and their families to existing social support programmes to ensure access to essential services.

d. Increase visibility and meaningful participation and decision making of PLHIV and MARPs in impact mitigation programmes.

e. Provide quality emotional, religious and spiritual support to PLHIV and their families.

Strategy 4: Maintaining and improving an enabling environment for HIV prevention, treatment, care and support:

Key Activities:

a. Ensure HIV issues are mainstreamed into national social development plans and the necessary financial and technical resources are mobilised to support development and implementation of HIV and AIDS plans and programmes.

b. Strengthen capacity of key ministries and other government and civil society stakeholders at the national and local levels to develop and implement targeted evidence-based interventions.

c. Engage law enforcement, healthcare service providers, relevant public officials and civil society stakeholders, to assess and mitigate complications to the national HIV response.


This report presents a table of Global AIDS Response Indicators, the flowing is the section that pertains to MSM and transgender people:
### Men who have sex with men (MSM)

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Status 2009-2010</th>
<th>Status 2010-2011</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.11 Percentage of MSM reached with HIV prevention programmes</td>
<td>NA</td>
<td>22.3%</td>
<td>PUSH project 2010 (unpublished) BSS among MSM in Penang</td>
</tr>
<tr>
<td>1.12 Percentage of men reporting the use of a condom the last time they had anal sex with a male partner</td>
<td>62.9% VDTS 2009</td>
<td>38%</td>
<td>PUSH project 2010 (unpublished) BSS among MSM in Penang</td>
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<tr>
<td>1.13 Percentage of MSM that received an HIV test in the past 12 mo. and know their results</td>
<td>41% VDTS 2009</td>
<td>29.7%</td>
<td>PUSH project 2010 (unpublished) BSS among MSM in Penang</td>
</tr>
<tr>
<td>1.14 Percentage of MSM who are living with HIV</td>
<td>3.9% VDTS 2009</td>
<td>1.4%</td>
<td>Survey at selected sites 2011</td>
</tr>
</tbody>
</table>

### HIV and men who have sex with men: Country Snapshots - Malaysia, 2012 (UNDP/UNAIDS, 2012)

#### Community-based responses:

- There are no MSM-specific CBOs, formal networks, or support services; and MSM are informally organized with social groups, interest-based groups, and loose alliances.

- The Pink Triangle (PT) Foundation is the only community based organization that is known to provide MSM-specific services in the capital city of Kuala Lumpur. However, it also serves transgender people, male and female sex workers, and people who use drugs. At time of writing, their activities included: outreach at gay nightclubs, saunas, and massage parlours; and counselling, HIV testing, and health referrals.

- A coalition of Malaysian nongovernmental organizations has spawned from an annual festival called Seksualiti Merdeka that celebrates sexual diversity. The coalition advocates for the human rights of LGBT people in Malaysia.

- Albeit sporadically, MSM outside of Kuala Lumpur in the past have been reached with HIV prevention and treatment services through non-MSM-specific community based or nongovernmental organizations.

#### National MSM networks:

- There is no known national MSM network. In late-2012, the PT Foundation was reported to be in the process of forming one as part of the ISEAN-Hivos programme.
Legal environments, human rights and HIV responses among men who have sex with men and transgender people in Asia and the Pacific- An agenda for action, 2010 (Godwin, 2010)

According to this report:

The first Malaysian MSM Network Development meeting was held in 2009. Funded by a Netherlands NGO (Hivos) through APCOM and supported by the Malaysian AIDS Council (MAC), the meeting was attended by MAC Partner Organizations, informal MSM social groups, venue operators, doctors and gay advocates. In collaboration with the Malaysian Bar Council's Legal Aid Clinic, MAC has organized paralegal workshops and training-of-trainers on legal rights for people living with HIV, MSM, transgender people, sex workers and injecting drug users.

PT Foundation, Pink Triangle Programme (PT Foundation, 2013)

PT Foundation (previously known as Pink Triangle Sdn Bhd) is a community-based, voluntary non-profit making organization providing HIV/AIDS education, prevention, care and support programmes, sexuality awareness and empowerment programmes for vulnerable communities in Malaysia.

The foundation receives assistance from the Malaysian AIDS Council to work with five communities through the following programmes:

- People Living with HIV/AIDS: Positive Living Programme
- Drug Users: IKHLAS Programme
- Sex Workers: Sex Workers Programme
- Transgenders: Maknyah Programme
- Men Who Have Sex with Men (MSM): Pink Triangle Malaysia

Pink Triangle Malaysia works with gay men and other MSM (Men who have sex with Men) in Malaysia to provide information, support and care service related to HIV and sexuality. They offer facilities and services to enable gay men and MSM to make informed and responsible decisions in their own lives. Pink Triangle Malaysia was the first programme established by PT Foundation in 1987. The first service was an HIV/AIDS and sexuality counseling hotline, having since expanded services to offer a fully integrated HIV/AIDS programme for gay men and other MSM in Malaysia. The programme is tailored to suit the challenging environment for MSM in Malaysia and also deals with sexual orientation and identity issues. The MSM Programme runs a drop-in center, facilitates support/social group sessions, operate telephone counseling line, and performs outreach at MSM venues every week. With the help of over 200 community volunteers, in 2009 the MSM programme had the following achievements:

- Over 900 clients tested at our free and anonymous HIV clinic
- 46,000 safe sex packs handed out in 2009 through outreach
- 25,000 contacts made through outreach and other services
MSM and transgender groups working in Advocacy in Malaysia (ISEAN-HIVOS, 2013)

• Malaysian AIDS Council: national coordinating agency for NGO HIV response in Malaysia (Kuala Lumpur)
• PT Foundation: sub recipient of ISEAN-HIVOS programme (Kuala Lumpur)
• Kuala Lumpur AIDS Support Services Society (KLASS): about to embark on a study on MSM & TG (NIH grant)
• Pertubuhan Harapan Kasih (Johor)
• Sexuality Merdeka: a campaign based advocacy group
• Pertubuhan Advokasi Masyarakat Terpinggir (PAMT): sex workers CBO working with male, female and transgender sex workers
• Singalang Charity Association, Kuching (SCHA): organisation based in Kuching but have contacts from the whole State. Receives funding from Hivos (SAN Fund) and joint project with SAGA (MAC Fund) for HIV related activities in Sarawak
• Sandakan AIDS Support Group Association (SAGA): based in Sandakan, but have members from the whole Sabah
• Penang Family Health Development Association (Penang FDHA): active in Penang on advocacy activities for MSM and Transgender people
• Malaysian MSM and Transgender Network (myisean): a national network currently based in PT Foundation

HIV and men who have sex with men: Country Snapshots- Philippines, 2012 (UNDP/UNAIDS, 2012)

Legal information:

• There are no laws protecting MSM/transgender people. Schools can adopt any policy on exclusion of students or banning condoms.
• There are no laws to allow transgender people to change sex or gender on official documents and records.
• Reports of difficulties with law enforcement authorities for MSM and HIV workers have been documented. Condoms have been used as evidence of sex work; police have raided MSM venues; there have been reports of extortion by police; venues have difficulty taking part in HIV interventions if condoms are involved; and the anti-vagrancy law and anti-public scandal law have been used to harass MSM and transgender people.
• In 2009, the legal system in the Philippines was categorized as ‘moderately repressive’ for MSM or transgender people by a UN legal review.

Legal environments, human rights and HIV responses among men who have sex with men and transgender people in Asia and the Pacific- An agenda for action, 2010 (Godwin, 2010)

According to this report:

Philippines does not criminalize male-to-male sex, however police harassment of MSM and transgender people occurs. Laws being used by police to harass MSM and transgender people include the anti-vagrancy and anti-sex work laws (Revised Penal Code Article 202), anti-public scandal law (Revised Penal Code Article 200), the Anti-Trafficking in Persons Act and laws that pertain to moral turpitude. The vagueness of some of these laws enables some law enforcement personnel to threaten prosecution for sexual conduct, and to harass or extort money from MSM and transgender people.

The anti-vagrancy law was established so that the authorities could provide shelter to vagrants, but is used by some police to detain MSM and transgender people for the purpose of extortion. The anti-public scandal law is used to arrest MSM and transgender people suspected to be having sex in public places. The police usually do not proceed with a prosecution once a payment is made.

Police have used the presence of condoms, used or unused, as evidence to prove that male sex work is encouraged in establishments such as gay clubs, bath houses, movie houses and bars. Condoms as evidence of sex work are used to instigate police raids and threaten MSM and transgender people with criminal charges. The enforcement of these laws creates a climate of stigma. Commercial establishments, such as sex-on-premises venues, find it difficult to take part in safer sex initiatives if it involves the distribution or sale of condoms. Despite the lack of legal basis, the police reportedly continue to use possession of condoms as an excuse for harassment.

The Anti-Trafficking in Persons Act of 2003 (Republic Act No. 9208) expanded the definition of prostitution to cover transactional sex between males. Prior to the enactment of the anti-trafficking law, prostitution was a crime committed by females only. Raids in gay venues have used the anti-trafficking law as a basis because its gravity makes it easier for the police to extort money for arrested individuals and owners of establishments accused of facilitating sex work.

The decision of the Supreme Court in the Ang Ladlad Case (2010) clarified that the provisions of the Constitution relating to equality before the law and non-discrimination extend to LGBT populations. This may have far-reaching (but as yet untested) implications in terms of challenging discriminatory practices (particularly in government services and the public sector) and application of laws. The Ang Ladlad Case established that the Constitutional principle of non-discrimination requires laws of general application relating to elections to be applied equally to all persons, regardless of sexual orientation. Other laws that are applied unequally to homosexual or transgender people can be challenged under the Constitution, although the result of a challenge would depend on the circumstances of the case.


There are no specific laws against discrimination on the grounds of sexual orientation or gender identity in areas such as health care, education and private sector employment. Schools have discretion to exclude homosexual or transgender students, ban the promotion of condoms and exclude HIV prevention or sexual and reproductive health issues from the curriculum.
There have been numerous attempts to introduce national anti-discrimination laws for sexual orientation and gender identity. In 2008, *House Bill 956 Anti-Discrimination Bill* sought to make unlawful a wide-range of practices and policies that discriminate on the basis of sexual orientation and gender identity. The *Anti-Discrimination Bill* proposed to prohibit discrimination in the workplace, educational institutions, health centres, commercial establishment, police force and the military.

Other Laws:

*Right to equal protection under the law: Registration of political parties*

Ang Ladlad, a national advocacy group for the rights of LGBT people, applied to the Commission on Elections be included in the list of groups that are eligible to be chosen as a sectoral party under the system of representation. The Commission on Elections rejected the application because the group “tolerates immorality which offends religious beliefs”. The Commission’s decision equated homosexuality with immorality as defined by religion, and claimed that Ang Ladlad presented a threat to youth. The Commission invoked Article 201 of the *Revised Penal Code*, which deals with the glorification of criminals, violence in shows, obscene publications, lustful or pornographic exhibitions, claiming that Ang Ladlad espouses doctrines contrary to public morals.

Ang Ladlad filed a petition asking the Supreme Court to review the decision of the Commission on Elections. In 2010, the Supreme Court, in a unanimous decision, directed the Commission on Elections to grant Ang Ladlad’s application for party-list accreditation. The Court held that the Constitutional principle of non-discrimination requires that laws of general application relating to elections be applied equally to all persons, regardless of sexual orientation. The Court stated:

> From the standpoint of the political process, the lesbian, gay, bisexual, and transgender have the same interest in participating in the party-list system on the same basis as other political parties similarly situated...Hence, laws of general application should apply with equal force to LGBTs, and they deserve to participate in the party-list system on the same basis as other marginalized and under-represented sectors.

The Court based its decision on the equal protection clause of the Constitution of the Philippines, which guarantees that no person or class of persons shall be deprived of the same protection of laws which is enjoyed by other persons or other classes in the same place and in like circumstances. Moral disapproval of an unpopular minority was not a legitimate state interest sufficient to require the Court to uphold the Commission’s discriminatory application of the law. The Court also regarded the Commission’s decision as in violation of the rights of members of Ang Ladlad to freedom of expression and association. The Court recognized that the principle of non-discrimination as it relates to the right to electoral participation established under international human rights law applies in the Philippines.

**HIV and men who have sex with men: Country Snapshots - Philippines, 2012 (UNDP/UNAIDS, 2012)**

According to this report:

The central advisory, planning, and policy-making body of the government is known as the Philippine National AIDS Council (PNAC). It was established in 1992 to act as a multi-sectoral advisory body to the President on policy related to HIV. However, it remained crippled by a small budget until the Philippines Government enacted the Philippine AIDS Prevention and Control Act of 1998. Among the things it called for were a comprehensive nationwide HIV and AIDS educational and information campaign; greater recognition of the human rights of persons...
affected by HIV; and heightened involvement of local governments to provide community-based HIV services.

The National HIV and AIDS Strategic Plan for MSM and TG Populations 2012-2016, which is anchored on the 5th AIDS Medium Term Plan for 2011 to 2016, represents the most ambitious effort yet to combat HIV in the Philippines. It calls for policies and programmes informed by serologic surveillance data, a broader range of actors, and the integration of stigma reduction measures across the spectrum of HIV and AIDS services. There is indeed a precedent for a late-stage resurgence of HIV transmission in countries with historically low and stable HIV prevalence. But there is also little doubt that the epidemic’s future toll will depend in large part on how quickly and comprehensively the Philippines responds to rising HIV risk among men who have sex with men.


The National HIV and AIDS Strategic Plan for the MSM and TG Population 2012-2016 is a blueprint outlining priorities and key activities that aim to assist the Philippines Government to interrupt the transmission of HIV and ensure timely access to HIV treatment, care and support for MSM and TG people in the Philippines. The Plan's structure and language harmonizes with the goals, objectives and outcomes of the 5th AIDS Medium Term Plan for the Philippines 2011-2016 in support of the HIV prevention, treatment and care priorities outlined by the Government of the Philippines.

The Plan aims to halt the spread of HIV among MSM and transgender people in the Philippines. The Country AIDS response will be responsive to and accountable for the effectiveness of MSM and TG peoples’ programmes and services. The Plan sets out a series of priorities, measurable outcome, targets and activities.

**Strategic priorities:**

1. Interrupt the transmission of HIV and STIs in MSM and TG populations.

2. Ensure that MSM and TG people living with HIV get timely access to HIV treatment, care and support.

3. Encourage a supportive environment for effective HIV services to MSM and TG people.

4. Strengthen health and community systems for the governance, management and delivery of effective HIV services to MSM and transgender populations.

**Outcomes:**

1. MSM and TG people at risk for, vulnerable to and living with HIV avoid risk behaviors and prevent HIV infection.

2. MSM and transgender people living with HIV live longer, more productive lives.

3. The Country AIDS response is responsive to and accountable for the effectiveness of MSM and TG programmes and services.
Legal environments, human rights and HIV responses among men who have sex with men and transgender people in Asia and the Pacific- An agenda for action, 2010 (Godwin, 2010)

Challenging discrimination through political leadership in the Philippines24

Statement of Hon. Riza Hontiveros, Akbayan Partylist Representative to House of Representatives, and author of the Anti-Discrimination Bill:

The real problem is the status quo – the fact that we stigmatize sex and sexual relationships between men, the fact we have rendered transgenders as objects of ridicule and as an invisible community, the fact that we still ignore the clamor for equal rights and human dignity from our LGBT community…

Change the status quo and reverse the current situation. A holistic approach is necessary to scale up our response to the spread of HIV. Our response needs to keep up with the spread of virus, and that cannot happen if we continue to treat gays, bisexuals, and TGs as second or third class citizens in our country and if we continue to tolerate abuse and discrimination…

Akbayan has been working closely with the LGBT community to enact the Anti-Discrimination Bill, a measure that penalizes discrimination and abuse on the basis of sexual orientation and gender identity. The approval of the bill is a crucial step to remove barriers to safe and healthy outlook towards sex, which is the kind of consciousness that we need in promoting safer sex behavior and scaling up our response to HIV and AIDS. The key is to empower marginalized communities and that cannot happen if they continue to face abuse and discrimination. (Akbayan Citizens’ Action Party is a party-list organization in the Philippines House of Representatives. The Anti-Discrimination Bill is yet to receive the political support required for it to become law. Akbayan Citizens’ Action Party was the first Philippine political party to integrate LGBT rights into its party platform in the 1990s).

HIV and men who have sex with men: Country Snapshots - Philippines, 2012 (UNDP/UNAIDS, 2012)

Community-based responses:

- MSM are formally and informally organized, with CBOs, outreach programmes, and a national LGBT policy network.

National MSM networks:

- The Philippines hosts the Lesbian and Gay Legislative Advocacy Network and it is represented in the Insular South East Asia Network (ISEAN), established in 2009.
- The Dangal National Network, Philippines’ national network of MSM and transgender people, was officially formed in October 2012 with the goal of addressing critical gaps in supporting and scaling up activities that reduce HIV and AIDS among MSM and transgender people. Dangal is supported by the ISEAN/Hivos multi-country Global Fund Programme.

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Legal environments, human rights and HIV responses among men who have sex with men and transgender people in Asia and the Pacific - An agenda for action, 2010 (Godwin, 2010)

According to this report:

Advocacy NGOs include Progay-Philippines, LAGABLAB (the Lesbian and Gay Legislative Advocacy Network), STRAP (Society of Transsexual Women of the Philippines) and Philippine Forum on Sports, Culture, Sexuality and Human Rights (TEAM PILIPINAS). The Library Foundation conducts advocacy focusing on lobbying, organizing campaigns, mobilizing the media, and raising public awareness of discrimination and the need for sexual health programmes for MSM. The Library Foundation works with LAGABLAB in a joint effort with Amnesty International-Pilipinas in the ‘Stop Discrimination Now!’ campaign, which aims to raise awareness of the situation faced by LGBT communities and mobilize popular support for the adoption of policies and legislation to protect their human rights. LAGABLAB has assisted in documenting violations of human rights, input to drafting of the Anti-Discrimination Bill and lobbying for its enactment. Advocacy priorities include preventing the police from using condoms as evidence for sex work, and amendment of the Anti-trafficking Law and police policies to prevent law enforcement agencies from harassing sex workers.

Strengthening Community Leadership among Men who have Sex with Men (MSM) and Transgender Persons: Innovative Approaches (UNDP, 2011)

UNDP partnered with two non-governmental organizations - Health Action Information Network (HAIN) and TLF-SHARE to implement Component 4 of UNDP’s HIV Programme, ‘Strategic Information and Community Leadership among Men who have Sex with Men (MSM) and Transgender Populations’. In late 2010 a conference was held in Davao City, ‘Visayas and Mindanao MSM and Transgender Conference on HIV’ aimed at expanding participation of organizations outside Metro Manila. Attended by over 100 local MSM and transgender leaders, the conference resulted in the Davao Declaration, which underscored the MSM and transgender communities’ demand to be recognized, respected, and provided with appropriate services.

The Davao Declaration as quoted in this report:

“...to be treated as equals of everyone...without prejudice to our sexual orientation, identity or behaviour and without distinction as to our religion, age, ethnicity, or our HIV status...”

The Davao Declaration, adopted at the ‘Visayas and Mindanao MSM and Transgender Conference on HIV,’ acknowledged the danger of the growing HIV epidemic in the Philippines and the need to address it. Based upon a fundamental recognition that “human rights promotion and defense are fundamental to the response to the HIV epidemic” the Declaration puts forth that the rights of MSM and transgender persons to equality and nondiscrimination, privacy and confidentiality, health, participation, safe sex, formation of associations, family and relationships, and the same civil, political, economic, social, and cultural rights as others, are inviolable.

The declaration holds both members of the community and the government accountable for upholding these rights. For the community, it is stated that “The obligation imposed upon ourselves (is) to respect and recognize the rights of other people while we strive for the respect and recognition of our right.” At the same time, “The State, being the primary duty-bearer, should evolve, enact, enforce, evaluate and monitor policies, programmes and other mechanisms, together with realistic, practical and strategic responses to ensure that our rights are appropriately promoted, protected and fulfilled.”
LAGABLAB (Lesbian and Gay Legislative Advocacy Network- Philippines)  
(LAGABLAB, n.d.)

The Lesbian and Gay Legislative Advocacy Network-Philippines is a broad, non-profit, non-partisan network of lesbian, gay, bisexual and transgendered (LGBT) organizations and individuals working towards achieving a society free from all forms of discrimination, particularly those based on gender and sexual orientation.

LAGABLAB is composed of several LGBT organizations (The Library Foundation (TLF Share), Indigo Philippines, Lesbian Advocates of the Philippines, Metropolitan Community Church-Manila, Order of St. Aelred, UP Babaylan and Womyn Supporting Womyn Center) and individuals. LAGABLAB works closely with several international organizations. It launched the Stop Discrimination Now! campaign with Amnesty International Pilipinas and the International Gay and Lesbian Human Rights Commission. It also links up with other LGBT groups in the region through the Asia-Pacific Rainbow (APR).

The main purpose of LAGABLAB is to advance and protect the human rights and fundamental freedoms of Filipino LGBTs, especially in the areas of policy and legislation. It does legislative advocacy to push for laws that will promote LGBT rights and welfare. It organizes campaigns to influence public discourse on sexuality and raise awareness on the situation of lesbians and gays. It does research and documentation, too, to gather cases of abuses and human rights violations committed against Filipino LGBTs. It is also starting to lobby for local ordinances against discrimination on the basis of sexual orientation.

The Dangal (Pride) National Network (UNAIDS, UNDP, APCOM, 2012)

The Dangal National Network, Philippines' national network of MSM and transgender people, was officially formed in October 2012 with the goal of addressing critical gaps in supporting and scaling up activities that reduce HIV and AIDS among MSM and transgender people. Dangal is supported by the ISEAN/Hivos multi-country Global Fund Programme.

LEGAL AND POLICY ENVIRONMENT AND CURRENT SITUATION

Legal environments, human rights and HIV responses among men who have sex with men and transgender people in Asia and the Pacific- An agenda for action, 2010 (Godwin, 2010)

According to this report male-to-male sex is illegal under Penal Code 1860 Section 377A. Section 377, which criminalised carnal knowledge against the order of nature, was repealed in 2007. Section 377A was introduced in 1938 to criminalise non-penetrative sexual acts between men. There were 113 convictions of men for ‘outrages on decency’ between 2000 and 2006 under Section 377A. In 2007, the Prime Minister of Singapore stated that Section 377A is not actively enforced by Government.

Other Laws:

Section 354 of the Penal Code: ‘molest’ or ‘outrage of modesty’

Section 294(a) of the Penal Code: ‘doing an obscene act in public’
Section 19 of the Miscellaneous Offences (Public Order and Nuisance) Act: ‘soliciting in a public place’

According to Roy Chan of the NGO Action for AIDS, police actions targeting venues frequented by MAM have hampered and interrupted HIV prevention programmes. Some venue owners have expressed their fear and concern that the provision of condoms and lubricants in their premises may be used as evidence that they were promoting illegal homosexual sex. The criminal status of homosexual sex has made it difficult to get all venue owners together and to commit their businesses to adhere to best practice health and safety standards.

**Legal protections against HIV-related human rights violations, 2013** *(UNDP, 2013)*

This report identifies relevant provisions of Part IV of the Singapore Infectious Diseases Act 1977 which relate to HIV.

These include the following:

Section 22:

Provides that the Director of Medical Services may require any person who has been diagnosed as having AIDS or HIV Infection to:

a. undergo counselling at such time and at such hospital or other place as the Director may determine; and,

b. comply with such precautions and safety measures as may be specified by the Director.

Section 23:

Provides a duty to disclose HIV status to sexual partners as follows:

1. A person who knows that he has AIDS or HIV Infection shall not engage in any sexual activity with another person unless, before the sexual activity takes place:
   a. he has informed that other person of the risk of contracting AIDS or HIV Infection from him; and,
   b. that other person has voluntarily agreed to accept that risk.

2. A person who does not know that he has AIDS or HIV Infection, but who has reason to believe that he has, or has been exposed to a significant risk of contracting, AIDS or HIV Infection shall not engage in any sexual activity with another person unless:
   a. before the sexual activity takes place he informs that other person of the risk of contracting AIDS or HIV Infection from him and that other person voluntarily agrees to accept that risk;
   b. he has undergone the necessary serological or other test and has ascertained that he does not have AIDS or HIV Infection at the time of the sexual activity; or,
   c. during the sexual activity, he takes reasonable precautions to ensure that he does not expose that other person to the risk of contracting AIDS or HIV Infection.
Section 25:

Provides for protection of the identity of PLHIV. Disclosure of identity attracts a fine of $10,000 or imprisonment for a term not exceeding 3 months or to both. The Section states that any person who, in the performance or exercise of functions or duties under the Infectious Diseases Act, is aware or has reasonable grounds for believing that another person has AIDS or HIV infection shall not disclose any information which may identify the other person.

The Act defines numerous exceptions to this duty. For example, disclosure of identity is permitted: with the consent of the PLHIV; when ordered by a Court; to any medical practitioner or other health staff who is treating or caring for, or counselling, the person; or to the victim of a sexual assault.

Section 25A allows disclosure by a medical practitioner for the purpose of informing the spouse, former spouse or other contact of the infected person, provided that the medical practitioner:

a. reasonably believes that it is medically appropriate and that there is a significant risk of infection to the spouse, former spouse or other contact;

b. has counselled the infected person regarding the need to notify the spouse, former spouse or other contact and he reasonably believes that the infected person will not inform the spouse, former spouse or other contact; and

c. has informed the infected person of his intent to make such disclosure to the spouse, former spouse or other contact.

Section 25A also provides that the Director of Medical Services may disclose any information relating to any person whom he reasonably believes to be infected with AIDS or HIV infection to: health care workers who have been exposed to a risk of infection from AIDS or HIV Infection; a police officer or any provider of first aid who has experienced a significant exposure to blood or other potentially infectious materials of any patient.

**Singapore Report NCPI, 2012 (Government of Singapore, 2012)**

Singapore’s National Commitments and Policies Instrument Part A was completed by government officials, this section reported the following:

- The country does not have a general (i.e., not specific to HIV-related discrimination) law on non-discrimination.

**Singapore UNGASS Report, 2012 (Government of Singapore, 2012)**

The following data and information presenting in Singapore’s 2012 UNGASS report was from the period January 2011-December 2011:

- 2010 HIV prevalence among MSM was 2.7 percent, compared to 0.11 percent among resident population 15 and above.

- High risk groups include:
  - MSM
  - Men who buy sex from illegal sex workers
• Illegal sex workers
• Inmates and Drug Rehab clients
• Male and Female Migrant workers.

• Specific educational programmes targeting high-risk heterosexual men and men who have sex with men (MSM) have also been implemented, in collaboration with community-based organizations.

• The government works closely with the NGOs to develop and conduct outreach, education and research activities in the MSM community.

• A working committee on MSM and HIV/AIDS comprising the Ministry of Health, government agencies and NGOs was set up to develop and coordinate a more intensive multi-pronged strategy for education, outreach and research programmes with the objective of creating an environment in which MSM are empowered to take personal responsibilities to reduce risk behaviours and undergo regular testing.


Singapore's National Commitments and Policies Instrument Part A was completed by government officials, it reported the following:

• The National HIV/AIDS Policy Committee and the Working Committee on MSM and HIV/AIDS meets regularly. The private sector and civil society partners are actively involved in the designing and implementation of HIV prevention / education programmes.

• Singapore is a committed member of the ASEAN Task Force on AIDS (ATFOA) and contributes actively to ASEAN Work Programmes on HIV/AIDS (AWP).

**Singapore Report NCPI, 2012** *(AIDS for Action Singapore, 2012)*

Singapore's National Commitments and Policies Instrument Part B was completed by Action for AIDS Singapore, this section reported the following:

• Infectious Disease Act further stigmatizes PLHIV. Penal Code 377A hinders prevention efforts to reach the MSM community.

• Immigration Act poses a barrier to foreigners to work or seek treatment in Singapore.

• Sexuality Education guidelines emphasise on abstinence and there is limited focus on condom use.

• There has not been enough attention on young MSM in sexuality education.

**Organizational Mapping Project of HIV/AIDS Groups for MSM and Transgenders in Developed Asia** *(APCOM, 2010)*

This report presents the finding from a mapping project aimed at identifying HIV/AIDS services for MSM and transgender people and scoping the capabilities and engagements of existing organisations. Findings include the following:
1. MSM and TG NGO/CBO was identified in Singapore, Action for AIDS
2. 8 clinics and one treatment centre were identified.

**Action for AIDS Singapore** *(Action for AIDS Singapore, 2012)*

Action for AIDS is a CBO formed in 1988 with the mission ‘to prevent transmission of HIV/AIDS through continuous education targeted at vulnerable groups; to advocate for access to affordable care and against HIV/AIDS discrimination; and to provide support for PWAs (persons living with HIV and AIDS), caregivers and volunteers’.

Their work includes:

- Educational activities ranging from telephone counselling, public talks and exhibitions, and outreach to the community and target groups, including the development and distribution of educational materials and publications.
- Operating an HIV-testing facility in Singapore.
- Having been involved in behavioural research and intervention programmes for human resource managers, sex workers and other communities.

**Fridae** *(fridae empowering LGBT asia, 2013)*

Fridae is a media company founded with the mission to “Empower Gay Asia”. Part of Fridae’s mission is to empower gay Asia to come together, stay together, be informed overcome discrimination, nurture personal growth and foster healthy relationships. They seek to do this by providing accurate fair and quality reporting and analysis of news and current affairs concerning LGBT Asia. Fridae provides a platform for LGBT voices that are suppressed by society and mainstream media outlets. Fridae operates an online portal that reaches over 2 million visitors each month.

**TIMOR-LESTE**

**Legal and Policy Environment and Current Situation**

**Legal environments, human rights and HIV responses among men who have sex with men and transgender people in Asia and the Pacific- An agenda for action, 2010** *(Godwin, 2010)*

According to this report same-sex sexual activity has been legal in Timor-Leste since 1975.

Other Laws:

The *Labour Code* protects against discrimination on the basis of sexual orientation and HIV status.25

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MSMGF website-Timor-Leste (MSMGF, 2011)

UNGASS Indicators for MSM

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Data Reported</th>
<th>Year of Report</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percentage of MSM that have received an HIV test in the last 12 months and who know the results</td>
<td>NO DATA</td>
<td>-</td>
</tr>
<tr>
<td>Percentage of MSM reached with HIV prevention program</td>
<td>NO DATA</td>
<td>-</td>
</tr>
<tr>
<td>Percentage of MSM who both correctly identify ways of preventing the sexual transmission of HIV and who reject major misconceptions about HIV transmission</td>
<td>NO DATA</td>
<td>-</td>
</tr>
<tr>
<td>Percentage of men reporting the use of a condom the last time they had anal sex with a male partner</td>
<td>NO DATA</td>
<td>-</td>
</tr>
<tr>
<td>Percentage of MSM who are HIV infected</td>
<td>NO DATA</td>
<td>-</td>
</tr>
</tbody>
</table>

MSM Country Snapshots- Country Specific Information on HIV, men who have sex with men (MSM) and transgender people (TG) Timor-Leste, 2010 (APCOM, 2010)

According to this report:

- There is a specific programme line for MSM in the NSP and a specific budget line.
- The NSP includes: peer based education, social marketing, condom distribution and outreach.
- Timor-Leste has received funds from the Global Fund to Fight AIDS, Tuberculosis and Malaria. The Round 5 proposal had a strong focus on MSM and female sex workers. Phase 1 showed 787 individual contacts with MSM, which was 120 percent over the target number.


Projects have been established targeting MSM, Female Sex Workers, Uniformed Services Personnel and clients of Sex Workers.

Under the Round 5 Global Fund HIV Grant, projects targeting MSM and FSWs include:

- Peer outreach in Dili, Baucau, Covalima, Bobonaro, Oecusse
- Establishment of a referral system to STI and VCT services in Dili, Baucau, Covalima, Bobonaro, Oecusse
- Advocacy in Dili, Baucau, Covalima, Bobonaro, Oecusse
- Drop in centre in Dili
### Indicator data presented in this report:

<table>
<thead>
<tr>
<th>Target</th>
<th>Indicator</th>
<th>2010</th>
<th>2012</th>
<th>2012 Data Source</th>
<th>Remarks</th>
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<tbody>
<tr>
<td>Reduce sexual transmission of HIV by 50 percent by 2015 Men who have sex with men</td>
<td>1.11 Percentage of men who have sex with men reached with HIV prevention programs</td>
<td>23.3% MSM reached through NGO services</td>
<td>94%</td>
<td>2011 IBBS</td>
<td>Indicator “Do you know where you can go if you wish to receive an HIV test?”</td>
</tr>
<tr>
<td></td>
<td>1.12 Percentage of men reporting the use of a condom the last time they had anal sex with a male partner</td>
<td>With a regular partner – 37.5% Non regular partner – 43%</td>
<td>66%</td>
<td>2011 IBBS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1.13 Percentage of men who have sex with men that have received an HIV test in the past 12 months and know their results</td>
<td>25.6% MSM have ever had an HIV test</td>
<td>32.5%</td>
<td>2010 IBBS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1.14 Percentage of men who have sex with men who are living with HIV</td>
<td>0.9%</td>
<td>1.3%</td>
<td>2011 IBBS</td>
<td></td>
</tr>
</tbody>
</table>

### Legal environments, human rights and HIV responses among men who have sex with men and transgender people in Asia and the Pacific—An agenda for action, 2010

(Godwin, 2010)

MSM are identified as a most-at-risk group in the National Strategic Plan on HIV/AIDS/STIs 2006–2010. The Strategy states that it is based on human rights and explicitly recognizes the importance of ensuring accessible legal remedies are available to people living with HIV and those most vulnerable to HIV. The Strategy notes that citizens can access the Office of the Ombudsman for Human Rights, which responds to citizens’ complaints of abuse of public powers.

### Timor-Leste Ministry of Health website

(Timor-Leste Ministry of Health, 2011)

According to the website:

Timor-Leste has 56 reported cases of HIV/AIDS. The Government of Timor-Leste has adopted international procedures on HIV/AIDS such as international precautions, PEP, Mother to child transmission, GIPA etc. Given its global mandate of mainstreaming HIV/AIDS in development work, UNDP Timor-Leste has supported setting up of the National AIDS Commission (NAC) in 2006 and continues to assist strengthening NAC secretariat. NAC is composed of 22 members.
including National NGOs, National Parliament, Ministry of Health, Ministry of Justice, Ministry of Social Solidarity, Faith Based Organizations, clinical services, National Hospital, UNTG and CCM.

The prevalence of HIV/AIDS in Timor-Leste is presently low. However, presence of risk factors like high levels of STIs, low community awareness, social dislocation and rapid social change have the potential to rapidly change the scenario. HIV has been accorded priority in the Health Sector Strategic Plan 2008-2012 developed by the Ministry of Health. The National HIV/AIDS and STI Strategic Plan for 2006 - 2010 focuses on prevention and education; voluntary counseling and testing; multi-sectoral response; and clinical services. The National Programme has initiated interventions on community awareness generation, roll out of VCT services, targeted interventions among the most at risk groups in collaboration with civil society partners and STI services with fund support from Global Fund.

Legal environments, human rights and HIV responses among men who have sex with men and transgender people in Asia and the Pacific- An agenda for action, 2010 (Godwin 2010)

Fundacion Timor Hari provides HIV prevention outreach to MSM. Scarlet Timor is a peer-based organization of sex workers that includes male and transgender sex workers among its members.

Fundasaun Timor Hari’i (Fundasaun Timor Hari’i n.d.)

According to the website:

Fundasaun Timor Hari’i (the ‘Build Timor Foundation’) is a local non-governmental organisation that works with communities at higher risk to help prevent the transmission of HIV in Timor Leste.

They use an effective peer-led approach to facilitate long-term behaviour change for men who have sex with men (MSM) and sex workers (SW) in five districts around the country. FTH also works to help reduce stigma and discrimination against MSM and SW in partnership with local advocacy and support organisations. From 2012, FTH is implementing a harm reduction programme for drug users and engaging clients of sex workers with a venue-based approach.

FTH works to empower the communities they work with through an organisation-wide culture of consultation, engagement and participation. FTH has a strong capacity building focus among field-level staff and volunteers and encourages members of the communities to take active roles in the organisation.

Vision

Timor Leste maintains a low level of HIV and other sexually transmitted infections helping it to grow into a healthy and strong nation

Mission

To reduce the risk of HIV and other sexually transmitted infections among communities at higher risk in Timor Leste through advocacy and targeted behaviour change programs

Advocacy is a vital component of FTH’s programs. As in many countries worldwide, men who have sex with men (MSM) and sex workers (SW) experience stigma and discrimination in Timor Leste. FTH leads and takes part in a number of initiatives aimed at reducing stigma and discrimination against the communities we work with.
Policy level

FTH works actively with the National AIDS Commission (NAC) to promote the rights of MSM, SW and other marginalised communities and to build an enabling environment for FTH’s behaviour change programs.

Promote MSM and SW’s right to:

• work and education
• full and accurate information on sexual and reproductive health
• be treated with dignity and respect when accessing health services
• to live their chosen lifestyle.

FTH has advocated on behalf of MSM and SW to ensure their representation at policy level. They also work with NAC to help promote the rights of MSM and SW in public discourse. FTH work with the Ministry of Health (MoH) to ensure health services operate with sensitivity, understanding and respect towards the communities we work with. FTH staff and volunteers have contributed to doctor and medical staff training on issues of Voluntary Confidential Counselling and Testing (VCCT) and STI testing.

Community level

At the community level they have found widespread misunderstanding of HIV prevention and prejudice towards the communities we work with. This can result in stigma, discrimination and violence towards these communities and FTH staff working with them. To mitigate these issues FTH conducts advocacy with community leaders and local populations. At the national level FTH facilitates regular multi-stakeholder advocacy workshops to reduce stigma and discrimination against marginalised communities including MSM, SW and people living with HIV (PLHIV). Representatives from uniformed services, the Church, faith-based organisations, local and international NGOs and local community elders are invited to workshops to which provide sensitisation on HIV prevention issues and improved understanding of marginalised groups.
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