

Sexual, Human and Legal Rights

for Chiang Mai's Men that have Sex with Men (MSM),
Male Sex Workers (MSW) & Transgender Communities (TG)



A reference manual for peer & outreach workers

Produced by Mplus, BABSEA CLE & The Open University

Acknowledgments

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constitution. During the workshops the project team worked closely with MSM volunteers to acknowledge the unique barriers MSM, TG and sex workers (Thai and migrant) face in Chiang Mai in regards to their human and sexual rights.

The manual was peer-reviewed by Gurmit Singh from the International AIDS Society (IAS, Geneva), Rapeepun Jommaroeng (Ohm) the Thailand HIV program and Regional MSM program focal point at UNESCO, Natcha Polwai and Chewin Chiangkan, both undergraduate law students from Chiang Mai University.

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ABBREVIATIONS

AIDS	Acquired Immune Deficiency Syndrome
ART	Antiretroviral Therapy
ARV	Antiretroviral (usually referring to regime of drugs)
HIV	Human Immunodeficiency Virus
MSM	Men who have Sex with Men (or males who have sex with males)
PEP	Post Exposure Prophylaxis
STI	Sexually Transmitted Infection
TG	Transgender (male to female pre and post operative sex change)
VCT	Voluntary Counselling and Testing

This manual was produced to supplement UNESCO's publication entitled, '*Peer and outreach education for improving the sexual health of men who have sex with men: A Reference manual for peer and outreach workers*ⁱ' currently used by Mplus. Peer education and outreach workers not only need information about the sexual, human and legal rights of MSM, MSW and TG but also information about their legal, sexual and human rights. In addition they need to know where to refer MSM, Thai MSW and migrant MSW and TG in their local community to find help or services if their rights have been denied or violated.

A recent demographic survey found that HIV incidence among MSM in Bangkok increased from 17% in 2003 to 31% in 2007. The rate of new HIV cases in Chiang Mai rose from 15.3% in 2005 to 16.9% in 2007, while rates in Phuket increased from 5.5% to 20%. This points to the fact that HIV prevention programmes in Thailand fail to reach MSM. Mplus, a community-based organisation, adapted its prevention strategies to the changing patterns of risk behaviour and situations involving MSM, TG and Thai and migrant male sex workers (MSW) and their clients and partners, due to changing contexts both on and offline. Mplus understands that a lack of basic prevention information, combined with fear and stigma can lead many MSM, MSW and TG to engage in behaviour that increases their risk of exposure to HIV.

Recognising the need for a coordinated response to this crisis, Mplus began a collaboration with Bridges Across Borders South East Asia Community Legal Education Initiative (BABSEA CLE) and The Open University (UK). They collaborated to produce this manual and train peer and outreach workers to increase the quality of information (particularly sexual, human and legal rights) they provide

to MSM in their already established HIV/AIDS outreach and prevention programmes.

This reference manual will provide peer and outreach workers with knowledge and information on sexual, human and legal rights. It is hoped the access to and sharing of this knowledge will battle the stigma and discrimination around sexuality, sex work, sexual orientation, and legal and human rights in Chiang Mai. Paramount to this endeavour is providing peer and outreach workers with information on where to refer MSM, MSW and TG to free local resources if, and when, they have questions about their rights, or feel that their rights have violated.

What is this reference manual about?

This manual assists peer educators and outreach workers who work with MSM, MSW and TG to sustain and update their knowledge about sexual, human and legal rights in Chiang Mai Thailand. It provides detailed information about everything an outreach worker may be asked during his/her work. The manual aims to improve the range, accuracy and type of information peer and outreach workers may need in addition to their knowledge about HIV/STI and sexual health needs for the MSM, sex worker and TG population in Chiang Mai and its surrounding area.

One of the eight United Nation's Millennium Development Goals specifically targets the issue of HIV and AIDS. Addressing HIV among MSM, TG and male MSW is proven to be an effective strategy to avert larger rates of HIV in the wider population. However, stigma towards MSM, TG and MSW creates affective and social barriers, driving the problem underground. Additionally, many HIV prevention programmes in Thailand may often fail to reach MSM, TG and sex

worker populations. This is often because they remain highly stigmatised, vilified and shunned members of society. This stigmatisation of MSM, MSW and TG undermines both their self-worth and capacity to protect themselves from HIV. This manual aims to recognise the efficacy of rights-based approaches to HIV prevention amongst groups who are victims of stigma. The right to health is considered an inclusive right, extending not only to timely and appropriate healthcare, but also to the underlying determinants of health, as well as social determinants such as gender, racial and ethnic discrimination and disparities.

This manual aims to support and enable the human right to healthcare without discrimination and precipitate a more effective enabling environment for realising the health and human rights of stigmatised MSM, MSW and TG communities by addressing social and legal barriers to accessing HIV prevention.

How should this manual be used?

The manual consists of different units which allow each individual peer/outreach worker to choose the materials he/she needs in relation to the possible questions that may be posed to them during their peer/outreach work. The information in this manual is presented in a Question and Answer format to enable peer and outreach workers to easily find answers to questions that MSM, MSW and TG might ask them when they are providing HIV/AIDS outreach and prevention.

This manual is a work in progress and the project team is committed to updating it on an ongoing basis when new resources or information becomes available or when and/if there are changes in Thai law. Users of this manual will be able to discuss its use and ask additional questions on a message board available at

www.mplusthailand.com/webboard/. For more information they can also contact Mplus, BABSEA CLE or The Open University:

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Unit 1

The Role of the Peer / Outreach worker

Unit 1

The Role of the Peer / Outreach worker

1.1 What is the difference between a peer educator and an outreach worker?

An Mplus outreach worker actively searches for people to reach out to (mainly outside his/her social network). This is often in locations where MSM, MSW and TG are likely to be at risk to HIV infection and/or suffer possible stigma, violence and discrimination. An outreach worker aims to help the MSM, MSW and TG to prevent HIV transmission and other sexually transmitted infections (STIs). In addition outreach workers offer information about where to access legal support services and voluntary counselling and testing (VCT) and antiretroviral therapy (ART), as well as social or support services.

A peer educator works within a network of friends or colleagues, mainly within his/her own social network. Mplus peer educators work offline and online in virtual social networking communities. He or she uses his/her knowledge to role-model attitudes and influence peers by raising awareness about HIV and sexual, human and legal rights. The peer educator helps to prevent HIV transmission, gender-based violence and helps members of his/her network(s) seek HIV and STI testing, antiretroviral care, as well as social or support services.

What is the focus of the peer educator/outreach worker's work in relation to HIV prevention and human, sexual & legal rights?

Their work is often based on the following activities:

1. Talk about 'good' sex in a positive way and talk to peers about pleasure, risk to HIV and a safer sex;
2. Provide correct information about HIV and STI transmission (i.e. modes of transmission), prevention and safer sex;

3. Promotion and provision of condoms with water-based lubricants and information on correct use;
4. Promotion of positive attitudes towards condom use and how to negotiate their use with all sexual partners;
5. Provide correct information about the Thai law; sexual and human rights; healthcare and the law; HIV/AIDS and the law; and sex work and the law in Thailand;
6. Promote healthy attitudes towards sexuality (gay, lesbian, bisexual, straight) and gender identity (male, female, transgender);
7. Refer to MSM, MSW and TG-friendly local STI services and provide information about the need to treat STIs as a means of reducing HIV risk; and
8. Provide information on MSM, MSW and TG-friendly HIV screening services;
9. Provide information and referrals to organisations that provide support for people living with HIV when needed; and
10. Refer to MSM, MSW and TG-friendly local legal clinics for advice and help in understanding individual sexual, human and legal rights in Chiang Mai.

Some frequently asked questions while doing this work are discussed below, as well as some possible answers.

1.2 Why are you doing this work?

In becoming a peer educator or outreach worker, you may have the following motivations:

1. You enjoy talking about ‘good sex’ and ‘safer sex’;
2. You may be concerned about the HIV epidemic and rights in general;
3. This is your job and you are dedicated to your work;

4. You may be worried about losing your friends to HIV;
5. You may be convinced that peer education or outreach methods can change your friends' behaviours;
6. You have been introduced to this work by your friends and would like to join in;
7. You may have confidence in your ability to make a difference to your friends using your peer influence;
8. You may like the fact that you are useful to society or to your community;
9. You may be interested in advocacy to the general public to increase understanding of MSM and to reduce stigma and discrimination;
10. You may enjoy the opportunity of networking and meeting new people.

1.3 'Why do YOU care about my health and rights?'

This question is sometimes asked in a cynical manner – almost like 'please go away and mind your own business'. People asking such questions do not know, or do not like to be reminded, that they may be putting themselves and their sex partners at risk of a serious disease; therefore their reaction can be one of indifference, disinterest or even hostility. It is not easy to deal with this attitude, but you could respond by saying:

1. I care about our community; 'our kind of people'; I do not want to lose you or my friends to this disease or see you suffer because your rights have been violated;
2. I like to talk about good sex, sexual pleasure, and safer sex;
3. I care about it because HIV and STIs are easy to prevent;
4. I care about it because if you have HIV, it is not too hard to control the virus using modern medicines, and it will keep you and your partner(s) healthier;
5. How would you feel if you did not know you had HIV but had transmitted it to others just because you did not want or like to use a condom?

6. I care about HIV because there are large numbers of MSM, MSW and TG are living with HIV;
7. I care because it is a basic right that we should have access to information, and I can help people who need this information. I can also help you receive free legal advice at a local clinic; and
8. I care because violence against anyone is illegal and I want to help you understand your rights and the law.

1.4 Basic Principles and rules peer/outreach workers must follow:

The following basic principles were adapted from UNESCO's publication entitled, 'Peer and outreach education for improving the sexual health of men who have sex with men: A Reference manual for peer and outreach workers.'

1. **Confidentiality**: Issues raised by your friend or client **must** remain a secret. That means you cannot tell anyone, or other friends, what they have told you. You can use examples about people that you know in your work or from your social network. But make sure the person you are talking with cannot identify them. You need to maintain confidentiality to protect the trust of your clients or friends.
2. **Respect**: Always accept the person you talk to - even if they do not believe what you say or refuse to take your advice, or if they have different opinions. Do not judge them. Don't judge them and/or say, 'Don't do this'. Fear tactics do not work.

3. **Anonymity:** If a person you talk to does not want to reveal his/her name or age or other personal information, that is fine. Respect and honour it!
4. **Benevolence:** Always speak to your client or friend from the perspective that you have his/her best interests in mind.
5. **Reducing harm:** Your aim is to reduce your friend or client's exposure to HIV or STIs - do not expect him/her to adopt safer sexual practices right from the start. It will take time and effort: small steps towards greater safety are the norm. Also you want to make individuals aware of their rights and what to do if their rights are violated by someone else.
6. **Appropriateness:** Always try to provide information, support and skills according to the needs of your client or friend. Do not always repeat the same message.
7. **Be professional:** If you meet somebody you like and want to be friends or have sex with him/her, do this some other time. During working hours, you represent Mplus and you should not flirt or cruise. You should also not use your position to get your client's phone number or address.
8. **Not knowing the answer to a question is ok:** If you do not know the answer to a client or friend's question then this is OK. Simply say, 'I don't know. I will find out and get back to you.'
9. **Encourage your clients or friends to share information you provide through their networks:** Persuade your clients or friends to share what they know about preventing HIV and accessing human, sexual and legal right services in Chiang Mai with others online and in person.
10. **Be empathetic:** Always try to place yourself in the life of the person you are providing outreach or peer education to. Try to understand the challenges, difficulties and stigma he/she might be experiencing and help him/her overcome these challenges. Be patient and listen to what your friend or client is saying.

Think carefully about the how you respond to their questions and who you might refer them to in the community for extra support or help.

11. **Show evidence of what you do:** Make sure you follow Mplus procedures for recording your work. You will need to keep anonymous records and use monitoring tools. This will help Mplus improve their outreach and peer education programmes.

Unit 2

Introduction to the law

Unit 2

Introduction to the law

2.1 What is the law?

“The law is the rules that allow people to live together. The law provides punishment for many kinds of wrongful behaviour” (Dr. Phorhin Polakhun). The law tells us what we must and must not do. People who do not follow the law may be punished. Laws often come from the morals, values, and customs of a society. Laws can be very different in different countries because of the culture, religion and values of those countries. For instance, in Thailand the marriage law covers only marriage between a man and a woman, but in other countries, such as the Netherlands, marriage can include marriage between two men or two women.¹

2.2 Why laws are important?

Laws touch on every aspect of our lives from birth until death. For instance, when we buy rice at the market, drive a motorbike or rent an apartment. The law is a tool which allows us to live safely in society and also allows us to live happy lives. Laws also provide order in society so that we can all live together peacefully. Laws tell us about what people must or must not do.

Laws are very important because they:

1. help maintain order and solve problems in a fair, equal and peaceful way;
2. provide us with certain freedoms, for example the freedom of speech or the freedom to express personal and political views; and
3. protect people's sexual, human and legal rights

¹ Same-sex marriage in the Netherlands has been performed and recognised since 1 April 2001

2.3 How do laws affect our daily lives?

Laws affect every part of your daily life. Without us even knowing it, the law is operating when we buy a mobile phone or ride a motorbike. There are laws covering our employment and how to buy, sell and rent property. There are also laws about crime, violence, education, or running a business. There are also laws about healthcare and HIV/AIDS.

2.4. What are your rights under Thai Laws?

Every person in Thailand is considered equal under the law. This means all individuals must be treated the same and have the same rights. Under the Thai Constitution you have the following rights:

- to live in society
- to basic education
- to vote (when you are 18 or over)
- to choose a partner
- to choose your own job
- to own and run a business
- to own property and protect your property
- to access social welfare, for example the right to go to hospital or the right to government housing
- to travel inside and outside of Thailand

However, there are certain rights which MSM, MSW and TG do not have in Thailand. This includes the right to marry a partner of the same sex or for a transgender person to marry a person of the same biological gender that they were born into. There are also cases where MSM and TG may be refused jobs because of their sexual preference or gender diversity. Although the Constitution does not exactly state that it protects gender and sexual diversity, the intention of the Constitution would imply that people who have different gender identities or sexual diversities will still be protected under the Constitution. Despite this, in practice there are still cases of people of diverse sexual and gender identities being discriminated against. There are many resources available in this manual to refer peers or clients to if they tell you they feel their rights have been violated or that have suffered discrimination.

Unit 3

Introduction to Thai law

3.1 What is the Thai constitution?

The Constitution is the highest law in Thailand. All laws in Thailand are made under the Constitution and must be in line with what is written in the Constitution. It is the most important law in protecting people's rights and making sure that people are treated equally. There have been many constitutions in Thailand to reflect the changing times and situation of the country. Rights may be increased or decreased when the Constitution is changed. The major aims of the Constitution are to:

- further promote and protect people's rights and liberty;
- encourage people's participation in the administration of the country;
- support honest and fair operations of the courts and independent organizations; and
- emphasise the values of morality and ethics and virtuous guidance for the administration of the country's affairs – this is very important.

3.2 Why is the constitution important?

The Constitution is the highest law in Thailand. This means that the Government cannot do whatever they want. They must only make laws which are in line with the Constitution. The Constitution protects our basic rights and liberties. The Constitution also organizes how the country runs.

3.3 What rights do you have under the constitution?

The Constitution provides that:

*“All persons are equal before the law and shall enjoy equal protection under the law.
Men and women shall enjoy equal rights.*

Unjust discrimination against a person on the grounds of the difference in origin, race, language, sex, age, disability, physical or health condition, personal status, economic or social standing, religious belief, education or constitutionally political view, shall not be permitted.”

The constitution requires that all people are treated equal. The Constitution is important in protecting your rights. Under the Constitution you have the following rights:

- equal protection by the law
- freedom from torture
- right to peacefully enjoy your home
- right to travel freely in Thailand
- right to privacy
- right to communicate
- right to practice the religion of your choice
- right to safety at work
- right to public health service
- right to welfare from the state
- right to receive education

It is important to note that even though you have these rights, it is often difficult and expensive to enforce them in the courts.

You also have the following responsibilities/duties under the Thai Constitution, including:

- duty to defend the country
- duty to obey the law
- duty to vote at an election
- duty to pay taxes

Unit 4

Understanding human rights

4.1 What are Human Rights?

Human rights are the rights people have to things and activities that are necessary for them to live happy, healthy and free lives. In our daily lives, we all have basic needs such as enough food to eat, clean water to drink and healthcare when we get sick. We also need some basic freedoms, such as the freedom to express our opinions and practice our religion. Having access to these things and enjoying these freedoms are our basic rights as human beings.

Everyone, everywhere has these rights – young and old, rich and poor, male or female or transgender – no matter where they were born or what they believe. These rights cannot be taken away from us and must be respected at all times.

Human rights come from the common values of cultures and communities around the world. These values have developed in many different societies and countries because most people around the world believe that they and the people around them should be treated with respect.

Unfortunately, throughout history many people around the world have experienced or witnessed terrible suffering under poor government or military rule. War, violence, food shortages and inadequate access medical care for the sick, all threaten human security. Laws and regulations that endorse human rights' principles are critical for ensuring that people and communities are sufficiently protected and cared for.

According to the *Universal Declaration of Human Rights*, (all human beings are born free and equal in dignity and rights.² Everyone is entitled to all the freedoms and rights regardless of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.³ All people 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 discrimination⁴. Everyone also has the right to a standard of living adequate for the health and well being of himself or herself and their family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability or old age.⁵

4.2 Where do human rights come from?

During World War II, many people's human rights were not protected. As a response to this, the United Nations was formed to create laws to protect people's human rights. Human rights generally come from these international laws, such as the *Universal Declaration of Human Rights*. Not all countries are the same in providing human rights for people who live in that country. For instance, in some countries it is considered a crime for men to have sex with men. In that country, men who do have sex men, may be imprisoned or executed. Other countries, such as Thailand, do not have this law. Some countries may allow marriage between two men and other countries may not. Some countries may allow transgender people to be treated by the law as their chosen gender, other countries may not.

² Article 1 of the Universal Declaration of Human Rights

³ Article 2 of the Universal Declaration of Human Rights

⁴ Article 7 of the Universal Declaration of Human Rights

⁵ Article 25 of the Universal Declaration of Human Rights

4.3 What do human rights mean in Thailand?

Thailand is a member of the United Nations. Thailand has signed many of the international laws about human rights created by the United Nations.⁶ This means that Thailand has agreed to respect certain human rights as covered by those international laws. The Thai constitution also covers some of these human rights which are the same international laws created by the United Nations. This allows people to realise how important human rights are for themselves and the wider society. It also provides guidelines on how to treat others as equals and how to live one's own life.

4.4 What are sexual rights?

Sexual rights are not specifically defined in any Thai or international law. In fact sexual rights mean different things to different people. For some people it might be the right to have sex with a person of the same gender. For other people it may be the freedom to change your gender. Sexual rights may include the freedom to be with, or to marry a partner of your choice. It can also mean the right to refuse unwanted sex or have sex with a person of your choice once you reach a certain age.

Due to Thailand's traditions and Buddhist values, Thailand protects some of these freedoms but not does recognize all of them. For example there is no law which prevents a man from changing his gender to female. However, a gender change cannot be legally recognized since there is no law to recognize gender reassignment surgery. This means that the rights and responsibilities of an individual under the law cannot be changed because of gender

⁶ Thailand signed one of these important international laws called, the Universal Declaration of Human Rights in 2006.

reassignment surgery. Therefore transgender females are legally considered to be men and cannot change their gender on their ID cards or passports.

Additionally, while it is not against the law for a man to have sex with a man or a transgender person, a man cannot marry a man and a transgender person may only marry a person of the opposite gender they were born into. This also means that when your male or transgender partner dies the deceased person's family may receive all of their assets.

However in certain situations, Thai law treats the sexual rights of everyone in the same way. For example, Thai laws protect all persons from unwanted sex (rape and sexual assault), regardless of your gender (male, female and transgender). Additionally, the age at which you can agree to have sex is the same for all people, regardless of your gender.⁷ The age of consent in Thailand is 15.

4.5 What can you do if your human rights are not protected?

The Office of the National Human Rights Commission of Thailand (NHRC of Thailand) deals with problems where a person's human rights have not been protected. If you feel that your rights have not been protected, you can bring your complaint to the Office of the National Human Rights Commission of Thailand or ask a trusted friend or an organization to bring the complaint on your behalf. Please refer to Unit 9 for details of how to contact the Office of NHRC of Thailand.

⁷

These rights come from Section 276 and 278 of the Thai Criminal Code

Unit 5

Understanding social norms and barriers

5.1 What are social norms?

Social norms are the rules of a society. They inform how people in that society should act and live. Social norms help to guide social behaviour or interaction, but have no legal punishment or penalty if people do not follow them. Social norms are different from laws as they are informal rules and are not made or enforced by the government. Laws, on the other hand, often reflect social norms and beliefs. But some beliefs are considered to be so important that the Government makes them into law, so that they can be enforced. An example of a social norm in Thailand is that you should take off your shoes before you come inside a building. If a person wears their shoes into a building, they will not be punished because it is not a law.

5.2 How do social norms affect our daily lives?

Social norms operate in our everyday lives. People who adhere to dominant social norms are often more easily accepted by their family, friends and community than those who do not. Certain social norms make life difficult in Thailand for MSM, MSW and TG. For example a common social norm accepted widely in Thailand is that men should only have sex with a woman and not other men or transgender people. This can make it difficult for men to form relationships with other men or get support from family or friends for these relationships. People who do not follow this social norm in Thailand may find that they receive different treatment from members of society. For instance, a man who chooses to live with his boyfriend, rather than marry, may be rejected by his family. This is also known as social stigma.

5.3 What are social barriers?

Social barriers are related to social norms. Social barriers are things that stop individuals from doing what they want or desire to do. Due to misunderstandings, negative portrayals in the media and stigma, people living with HIV may face barriers in finding employment or accessing friendly and understanding health services. Negative attitudes towards TG means they may also experience barriers finding employment, and friendly health services.

5.4 What is stigma?

***Stigma* refers to unfavourable attitudes and beliefs directed toward someone or something. Stigma often attaches shame or disgrace to something regarded as socially unacceptable. Stigma lets people or groups see differences or "others" in a negative light while confirming their own sense of normalcy and decency.**

Stigma often leads to marginalization – this means that people who are different from the mainstream are ‘pushed out’ or excluded. It may mean they have less access to education, health care or that they live in the least desirable neighbourhoods. Examples of stigma include unfavourable attitudes towards homosexuality or being a member of a specific nationality, religion or ethnicity. Criminality or being convicted of a crime also carries a strong social stigma.

5.5 How can we overcome social barriers?

Social barriers can be very difficult to overcome. Often social barriers are a result of people's thoughts and attitudes towards others. For example, people may think that MSM, MSW and TG are bad people or should be excluded. Many Thai people may also think that there are only two genders, male and female, and are not willing to accept transgender as a third type. The best way to overcome some of these barriers is through education, sensitivity training, demanding more favourable and equitable representation in the media and standing in solidarity with those individuals whose rights have not been respected.

Another way to overcome social barriers is join or participate in organisations that promote equality, participation and inclusion of individuals regardless of who they are, where they come from or who they might prefer to have sex with (Like Mplus!). For more information about MSM, MSW and TG social, advocacy, legal and support groups in Chiang Mai, please refer to Unit 9. These networks can be extremely useful in letting individuals know they are not alone and that people are there to help. These networks can also be used to share information to other members in the network and other people in the wider community, both on and offline. Providing information and knowledge about these marginalised groups can break down people's stigmas about that group and hopefully change their attitudes. Additionally, providing information in places like schools and hospitals to teach young people and health care workers about the issues faced by these groups can also help to reduce the number of social barriers for MSM, transgender and sex workers in the future.

Unit 6

Understanding health care and Thai law

6.1 What laws apply to healthcare in Thailand?

There are many laws in Thailand that support the underlying idea of fairness and equal treatment by health care services. One of these laws is the Constitution, the highest law in Thailand (see Unit 2 of this Manual for more information about the Constitution). The constitution states that everyone has “equal rights to receive quality public health services”⁸. This means that everyone has the same right to access health facilities such as hospitals or clinics, to get treatment from doctors and receive necessary drugs and medicines. This also means that regardless of your sexuality, gender or job you have the right to medical treatment. This also applies to people who are living with HIV; they cannot be refused care because of their HIV status.

6.2 Do I have the right to medical treatment in Thailand?

The Thai Government has a health insurance plan called the Universal Health Care Scheme⁹ for all Thai citizens to provide treatment in the case of sickness or an accident. This scheme offers treatment of nearly all diseases (including HIV/AIDS), for every Thai citizen who has a Gold Health Care ID card. This healthcare includes doctors, hospitals and other services in their local healthcare district where they live. If a person has a health problem that requires treatment by a specialist, a doctor in their local healthcare district can refer them for treatment elsewhere. This scheme requires that the person register with a particular government health service in the same Province as the person’s official place of residence.

⁸ Section 51 of the Thai Constitution

⁹ This law comes from the *National Health Insurance Act 2002*

However, people who are not Thai citizens, such as people from Burma who live in Thailand, cannot access this scheme.

6.3 What is a Gold Healthcare Card?

The Gold healthcare card is a card which allows Thai citizens to get free medical treatment for certain diseases.

6.4 Who can get a Gold Healthcare Card?

The Gold Healthcare Card is available to all Thai citizens. In order to get a healthcare card you must have 13 digits on your ID card and not be receiving any other health benefits from the Government.

6.5 How can I get a Gold Healthcare Card?

To get a Gold Healthcare Card you should go to your local government hospital or healthcare centre or Provincial Public Health Office. You will need to bring your household registration book ('ta bian baan'), your ID card and a request form (found at www.nhso.go.th). If you are under 15 years old you will also need to bring your birth certificate. If the hospital does not give you a Gold Healthcare Card you will receive a receipt which can be used like a Gold Healthcare Card until you receive the card.

If you do not live at the address that it says in the household registration book ('ta bian baan') you will need to bring one of the following:

- a household registration book from the address where you live, signed by the owner of the house;
- reference book from the head of the village or community where you live now;
- a reference letter from your employer; or
- other evidence of your new address, such as a rent receipt or a utilities bill

6.6 What treatments are covered by the Gold Healthcare Card?

The Gold Healthcare Card covers many medical and healthcare services for free, including:

- general health care and risk checks
- sexual health planning such as condoms
- HIV/AIDS Anti-retroviral medications
- house visits by a healthcare worker
- medical information
- medical consultations
- certain dental treatments

Most STI and HIV screenings are free in Chiang Mai. The Gold Healthcare Card can be used if you require referral to a specialist HIV/AIDS service. Please refer to the National Health Security Office (www.nhso.go.th) for more information.

It is important to note that the Gold Healthcare Card does not cover drug rehabilitation.

Under the conditions of the Gold Healthcare Card gender reassignment surgery is considered to be cosmetic surgery and is not covered by the Universal Health Care Scheme. Hormone therapy is also not covered by the Gold Healthcare card. These are both very expensive medical interventions and many TG must bear the costs by themselves.

6.7 Are there any laws about how to change your gender?

There are no specific ‘high level’ laws about changing your gender. However, the Medical Council of Thailand has Regulations which sets out the requirements for performing gender reassignment surgery:

- You must be at least 20 years old (or have permission of your parents if you are between 18 and 20 years old);
- Your doctor must be approved by the Medical Council and must follow the rules and procedures from the Medical Council;
- You must pass a medical evaluation by the doctor who will perform the surgery; and
- You must get certificate from two psychiatrist’s stating that there is a reason for performing the surgery.

Having a sex-change operation is an important change in a person’s life. Whenever outreach workers go out to the field, they may encounter many transgendered individuals who ask about these operations. Many of these questions come from young people, who, due to the lack of information believe that castration is equivalent to a sex-change operation and will result in more feminine features. It is very important to undergo a psychological evaluation before going through a sex-change operation, because this type of surgery is irreversible.

The patient who undergoes a sex-change operation must remember that his/her transformed genitals did not come about in a natural manner; but rather through medical procedures. So even though the person will have the ability to have sex, it is important to always take care of surgically constructed genitals. It is also important to be hygienic, because the natural manner in which genitals clean themselves is absent in a person who has undergone a sex-

change operation. It is also very important to use condoms and water based lubricant when having sex in order to protect yourself from HIV and other STIs.

Unit 7

HIV / AIDS and the law in Thailand

7.1 What laws apply to HIV/AIDS in Thailand?

There are many laws that apply to HIV/AIDS and healthcare in Thailand. For instance, there is the Constitution, criminal laws and civil laws. The Constitution requires that everyone is treated the same regardless of their ‘health condition’, this would mean that a person cannot be discriminated against because they are living with HIV. The Constitution also requires that a person’s right to privacy must be respected at all times.

There are also criminal laws about breaching privacy. This means that if people, such as healthcare workers, do not maintain your confidentiality about your HIV status they may be fined or imprisoned¹⁰

Legal rules from the Medical Council of Thailand require that doctors must treat all kinds of illnesses including HIV/AIDS. Doctors cannot refuse to help anyone and must always do their best. Doctors cannot disclose your HIV status without your agreement or consent.

There are no specific laws to require an individual to have an HIV test. This means that many private and Government employers may use this lack of a clear law to require or request a blood test before you begin work. If you test positive for HIV you may be dismissed from your job or refused employment. Often because it is against the law for an employer to dismiss someone because of their HIV status, they will make life difficult in other ways for an employee who has HIV in order to get them to quit. This is also illegal, but can be very difficult to prove. However, in these situations the employers might be required to pay the worker compensation money, but this can be difficult to get. If you are ill due to HIV/AIDS you may also get compensation money from your employer in certain

¹⁰

This law comes from section 323 of the Thai Criminal Code

circumstances.¹¹ Please refer to a free legal service for further information. Details of where you can get free legal advice are listed in Unit 9.

The National Policy on HIV/AIDS provides a list of four principles about HIV/AIDS testing. These are recommendations only and there is no specific legal consequence for not following the principles. However, it is possible that a person can sue if the Principles are not followed. The National Policy on HIV/AIDS provides that:

1. patients must consent to be tested;
2. patients must be provided with information and counselling before and after the testing;
3. test results must be kept confidential between patient and doctor; and
4. it is against the National Policy for an insurance company, an employer or a university to ask for a HIV/AIDS test from a person. A patient must give consent for their test results to be given to other people.

In order to strengthen the legal situation for people living with HIV/AIDS, healthcare workers and human rights organizations should work together to provide more information to employers who require HIV/AIDS testing for their employees.

7.2 What are my rights as a patient in Thailand?

The laws in Thailand provide that all Thai citizens have the same rights to access healthcare. This means that regardless of your age, gender, sex, race, religion, occupation,

¹¹ <http://dpc9.ddc.moph.go.th/aidstb/general/law.html>

disease status or sexuality, EVERYONE has the same rights. This also includes whether you are living with HIV or not. EVERYONE has the same rights.¹²

As a patient you have the right to:

- medical treatment;
- informed consent (see Unit 7.3); and
- confidentiality (see Unit 7.4)

Currently antiretroviral therapy (ART) is cheaply available to Thai citizens and legally registered migrant workers who have a CD4 count below 200, or are very unwell with a CD4 count of 250. ART consists of the use of at least three antiretroviral (ARV) drugs that work to maximally suppress the HIV virus and stop the progression of HIV disease. Huge reductions have been seen in rates of death and suffering when a potent ARV regimen is used correctly.

Patient rights also mean that if you consent to be tested for HIV:

- you have the right to information about HIV/AIDS and HIV testing;
- you have the right to refuse HIV testing; and
- you have the right to keep your HIV status private, even if your test result is positive.

¹² These rights come from the Medical Council Guidelines for physicians working in the area of

No person can force another person to take an HIV test. It is against the Medical Council Guidelines in Thailand. For example, an employer cannot force an employee take an HIV/AIDS test.

7.3 What is informed consent?

The information that you should be given about HIV testing in order to provide informed consent is:

- the benefit of testing;
- the right to refuse the follow-up services that will be offered in the event of a positive test result; and
- the importance of anticipating the need to inform anyone of ongoing risk who would otherwise not suspect they were being exposed to the HIV virus.

After you have been given this information, the final step is that you make the decision to take the test or decide not to take the test. For more information about taking the test and the benefits of knowing your HIV status, see question 19 in Part 10.

When you consent to ARV or ART medical treatment it must involve two parts: information (understanding) and permission (agreeing). This means that you:

- understand the type of treatment that you are going to receive; and
- give permission for that treatment.

If you still don't feel comfortable you have the right to ask more questions before agreeing to the treatment or refusing to take the treatment. For more information about ARV and see

Unit 6 of the *'Peer and outreach education for improving the sexual health of men who have sex with men: A Reference manual for peer and outreach workers'*.

7.4 What is confidentiality?

Thailand's law on privacy protects people living with HIV/AIDS, if they do not want others to know that they have HIV/AIDS.

A health care worker must get your permission before giving any of your medical information to another person, including to another health care worker or to another health care centre.

This means that a medical professional may not tell someone the results of another person's HIV test unless:

- the doctor has consent from the person tested for HIV;
- the person tested for HIV is under 18 years old or has a mental disability and is being cared for by another person like a parent or legal guardian; or
- the court orders it.

Consent:

Consent means to give permission to someone else to do something. This means a healthcare worker may only tell another person the results of an HIV test with the consent of the patient. For example, the doctor must ask for a patient's consent to tell the patient's family members that the patient has tested positive for HIV. If the patient refuses to give consent, the doctor cannot tell the family. If the doctor tells another person without the

patient's consent, then they may be imprisoned and/or fined. The doctor could also lose his/her medical licence.¹³

People under 18 years old and people with mental disabilities

When a person is under the age of 18 or has a mental disability and cannot make decisions for himself or herself, a medical professional may give a person's HIV test results to a parent or legal guardian, or to a patient's closest family member. A legal guardian is the person responsible for another person who cannot take care of himself/herself such as a child who has no parents or family to take care of him/her, or a person who has a mental disability. A legal guardian takes care of that person the same a parent would take care of their own child.

The Court

A court can, in limited circumstances, order a health care worker to give them confidential information. This would probably only be in the case if a person living with HIV had the intention of knowingly trying to give it to another person.

7.5 Can a healthcare worker tell my sexual partner that I am HIV positive?

A health care worker cannot tell your sexual partner that you have tested positive for HIV. Instead, the health care worker should counsel you on the need to tell your sexual partner and the importance of practising safer sex.

¹³ This law comes from the *Medical Council Guidelines and Rules 2006* and from section 323 of the *Thai Criminal Code* and Section 420 of the *Business Code*.

7.6 What does “notifiable disease” mean?

A notifiable disease means that health care workers have to report statistics about the number of cases they see, and inform the health authorities.

Health care workers, who administer HIV tests, or persons working with HIV test results must tell the provincial/district health department if a person tests positive for HIV. The provincial/district health department reports statistics to the Ministry of Health. They do this because it is important for governments and health professionals to know how many people have HIV/AIDS and the towns or cities where people test positive for HIV. The report will not include the person’s name, address, or any information to identify the person. The report only includes basic information like nationality, gender, age and sexual practices. This information helps doctors and community-based organisations understand current trends in new HIV transmissions and possible outreach and prevention programmes aimed at reducing future transmissions.

It is important to understand that reporting does NOT mean that the results of a person’s HIV test are made public in any way.

7.7 What is the difference between confidentiality and openness?

HIV status is often not an issue people feel comfortable talking about mainly because people living with HIV fear the stigma and discrimination that they may encounter if others know they are living with HIV. This makes it very difficult for them to come forward and tell others about their illness.

Being open about your HIV status means that you choose to tell certain people, but you do not lose your right to confidentiality with a doctor, nurse, health care worker or employer, for example. Your personal right to privacy and confidentiality must still be respected at all times. It is your choice to tell others, and to choose who to tell. This also applies to your sexuality, just because you are open about your sexuality does not give a health care worker the right to pass this information on to others.

7.8 What to do when your rights are not protected?

It can be very upsetting when your privacy has been violated. There are places you can go to for help and support if this happens. For example, you could go to a free legal clinic or human rights organisation to get legal advice. You could also make a complaint to the Office of the National Human Rights Commission of Thailand or a Government Department. Please refer to Unit 9 for contact details of these organizations in Chiang Mai.

Unit 8

**Barriers to sexual, human and legal Rights
for MSM, MSW and TG**

8.1 What legal barriers to healthcare do MSM face?

As gay men cannot marry their male partner, they cannot legally give consent for their male partner to receive medical treatment. This can also create problems for the children of a male partner, as only the biological parent will be able to give consent for any children of the relationship to receive medical treatment, and not the male partner.

Additionally, as gay men cannot marry their male partner they cannot receive social security or healthcare benefits to care for their male partner if he becomes sick.

8.2 What legal barriers to healthcare do transgender people face?

As TG cannot legally change their gender, if they are admitted to hospital they must stay in a hospital room with people of their previous gender (i.e. males). This can lead to embarrassment for transgender people. Additionally, as a transgender female would not be able to marry a male or transgender partner, they cannot receive social security or healthcare benefits to care for their partner if he/she becomes sick.

Also, many healthcare workers and surgeons may not have the knowledge to provide the right treatment for TG, because they do not have an adequate understanding of TG anatomy including the neo-vagina. This can lead to embarrassment for transgender people, and even a wrong diagnosis or treatment.

Additionally, there are only a limited number of hospitals in Thailand which perform gender reassignment surgery and hormone treatment. This can make it difficult for a transgender person to receive proper advice, treatment and/or care.

8.3 What legal barriers to healthcare do male sex workers face?

Sex work is not legal in Thailand. This means that many MSW do not receive social security from their employer. This means it can be difficult for MSW to go to the hospital. Additionally, as many MSW travel away from the place listed in their household registration ('ta bian baan') it can be difficult to provide evidence of their new city and register for a Gold Healthcare card in their new province.

8.4 What legal barriers to healthcare to migrant male sex workers face?

Most migrant sex workers cannot get an ID card. Sex work is also illegal in Thailand. This means that migrant sex workers cannot get social security benefits from their employer. Not having an ID card also means that they cannot apply for a Gold Healthcare Card and gain access to free medical treatment.

8.5 What social barriers to healthcare do MSM, transgender and sex workers face?

MSM, MSW and TG face many social barriers that prevent them from accessing healthcare. These barriers are often a result of stigma and society's negative view of these groups. For example, many people in society think that all MSM, MSW and TG have many diseases and many sexual partners. This means that healthcare workers may think negatively about these groups of people and not treat them as they would treat other patients. Many people also do not understand or respect these groups. Often people may think that MSM, MSW and TG have mental disorders or are unnatural. People who are living with HIV are often

treated as second-class citizens and are insulted and abused. The media often reinforces these negative attitudes in society by portraying MSM and TG in a negative way.

Healthcare workers still lack knowledge and understanding about these groups. This often leads to MSM, MSW and TG not wanting to access medical services or feeling shame or embarrassment when they do seek treatment. Additionally, this problem is further aggravated as there are very few specialist medical services in Thailand that cater to these groups, meaning MSM, MSW and TG may feel even more isolated or misunderstood. In particular, there are very few medical services or health check-ups which have knowledge or experience in providing healthcare for post-operative transgender people. In addition, many medical clinics are open only during the early morning; this can make it difficult for sex workers to access these services due to their late working hours.

Many MSM, MSW and TG still feel that their confidentiality is not respected. This means they are scared to attend medical services as they are afraid that other people will find out about their sexuality, gender identity, occupation, STI infections and/or HIV status.

Often, MSM who are not 'out' or open about their sexual practices will also be embarrassed about talking to healthcare workers about this. This means they may not receive the proper treatment or advice about STIs.

8.6 How can we overcome these barriers?

Community-based organisation and networks can act as advocacy groups and write letters to the government; write policy briefs or provide comments on laws as they pass through Parliament. These networks allow individuals to join together and speak in one loud voice about their position.

These networks can also be really useful in empowering individuals by letting individuals know they are not alone and that people are there to help.

Advocacy groups and networks can also work to provide information in places like schools, legal groups and hospitals to teach young people, health care workers and lawyers about the issues faced by these groups and help to reduce the number of social barriers for MSM, MSW and TG. If you want to learn more about these groups, how to contact them or even participate; there is detailed information in Chapter 9. It is important for the Mplus peer outreach worker to know about these resources and be able to recommend them confidently. It is also important to regularly update the list of resources as telephone numbers and addresses change regularly.

Unit 9

What to do if your rights have been violated

9.1 Where can I get help?

LEGAL ORGANISATIONS

You can get free legal advice from:

Legal Clinic, Faculty of Law, Chiang Mai University

Faculty of Law, Chiang Mai University

329 T.Suthep. A. Muang Chiang Mai 50200

Phone: 053-943589

Website: <http://www.cmulawclinic.com/> Email: cmulawclinic@gmail.com

The Office of the National Human Rights Commission of Thailand

120 Chaengwattana Road,

Laksi District, Bangkok 10210.

Phone: (66) (0)2141-3800, (0)2141-3900

E-mail : interhr@nhrc.or.th

Website: <http://www.nhrc.or.th/index.php?lang=EN>

If you need a lawyer you can contact:

Lawyers Council of Chiang Mai, Thailand

Address: 236/89 Sub-village 6. Mahidon Road.

Tambon Nongkhoi A. Muang Chiang Mai 50000

Phone: 053-141638-9

Fax: 053-141638-9

E-mail: chiangmai@lawyerscouncil.org.th

Website: <http://www.cmlawyers.ob.tc/>

NGOs PROMOTING SEXUAL DIVERSITY

Mplus

Mplus aims to promote safe-sex by raising awareness about HIV/AIDS and STD/STIs. Mplus implements an array of activities including safe-sex campaigns and training courses for MSM, as well as sexual rights activism. Mplus also offers free telephone and drop-in counselling, and has a free library of gay videos and literature, as well as health care information.

Address: 9/2 Samlan Road, Soi 6, Tambon Patsin, A. Muang, Chiang Mai 50200

Phone/Fax: 0846106465, Mobile: 66815954994

E-mail: Mplus_msm@hotmail.com

Website: <http://www.Mplusthailand.com/>

Bridges Across Borders Southeast Asia Community Legal Education Initiative (BABSEA CLE)

Address: 8 Soi 6 Tanon Suandok, A. Muang, Chiang Mai 50200

Phone: 6653808057

E-mail: blasky@babseacle.org, wmorrish@babseacle.org

Website: www.babseacle.org

Cross Cultural Foundation

CrCF aims at promoting cross cultural understanding on issues of protection and promotion of human rights and democracy. CrCF works to promote and protect the rights of marginalized groups in Thailand such as ethnic groups, migrant workers, and stateless peoples.

Address: 111 Soi Sithichon Suthisarnwinichai Road.

Samsennok Huaykwang, Bangkok 10320

Phone: 02-693-4939, 02-693-4831

Fax: 02-275-3954

Website: <http://www.crcf.org.th/th/index.php>

Rainbow Sky Association of Thailand (RSAT)

Address: 159 The Beach Residence Building, Level 8, Soi Chokshailuamit, Dindang, Bangkok 10310

Phone: 0269077334

Fax: 026907735

[Rainbow Sky is in the process of opening a Chiang Mai office. The phone number for Phonipiphat Potasin in Chiang Mai is 0835751380.]

Website: <http://www.rsat.info/home.html>

HIV/AIDS ORGANIZATIONS

If you live in Chiang Mai and are affected by HIV/AIDS you may be able to get assistance from:

Chiang Mai Provincial Social Development and Human Security Service

You will need to bring your house book ('ta bian baan'), your ID card and a doctor's certificate.

Address: Chiang Mai City Hall. Chotanaa Road. Tambon Chang Puak Amphur Muang Chiang Mai 50300

Phone: 053-112716, 053-112719

Fax: 053-112718

E-mail: chiangmai@m-society.go.th

Website: <http://www.chiangmai.m-society.go.th/main.php>

For consulting and information relating to HIV/AIDS contact:

Violet Home

Address: 9/57 Soi Sivichai 3, Suthep Rd, Tambon Suthep, A. Muang Chiang Mai 50200

Phone: 053808518, or call directly to individuals (Somran: 0873007060, Atchanon (Jessi): 0817245095, Latchaded (Louis): 0988514554)

Website: www.violethome.org

Thai Aids Treatment Action Group (TTAG)

TTAG aims to promote equal access to AIDS treatment for all through policy advocacy, coalition building, and strengthening the capacity of people living with or highly vulnerable to HIV/AIDS to advocate for their human rights.

Address: 18/89 Vipawadee Road, Soi 40, Chatuchak, Bangkok 10900

Phone: 029396434

Fax: 029396437

Website: www.ttag.info

AIDS-NET

Address: 145/1 Sriphum Rd, Tambol Sriphum, A. Muang, Chiang Mai 50300

Phone: 053222417, 053222484

Fax: 053222484

E-mail: aidsnetf@loxinfo.co.th

LABOUR RIGHTS ORGANIZATIONS

Labour Rights Promotion Network Foundation

LPN is an organization that aims to promote quality of life for workers. This includes rights-protection, promoting equality, self-reliance, and peaceful living together in society.

Address: Samut Sakhon Office

25/17-18 Mahachai Muangthong Village, Sahakon Road,

Bang Yah Praek sub-district,

Muang district, Samut Sakhon province, 74000

Phone: (+66) 034 434726; 034 434727; 0861631390; or 0841211609

E-mail: lpn.network@gmail.com

Website: <http://www.lpnrights.org/index.php>

If you have a problem with your employer or your company you may contact:

Chiang Mai Labour Office

Address: 1st Floor Chiang Mai City Hall. Chotanaa Road. Tambon Chang Puak Amphur

Muang Chiang Mai 50300

Phone: 053-112662-3

ORGANISATIONS WORKING WITH SEX WORKERS AND HUMAN TRAFFICKING

MAP Foundation

Address: 7 Chiang Mai University, A. Muang, Chiang Mai 50200

Phone: 053811202

E-mail: map@mapfoundationcm.org

Website: <http://www.mapfoundationcm.org/>

National Operation Centre on Prevention & Suppression of Human Trafficking

Address: 255 Rajvithi Home for Girls, 60th Anniversary Building (3rd Floor), Ratchavithi Road, Phayathai, Ratchavithi, Bangkok 10400

Phone: 0230686289

Fax: 023544643

E-mail: focal.trafficking@gmail.com

MENTAL HEALTH AND SUBSTANCE ABUSE ORGANIZATIONS

Mental Health Crisis Centre, Suanprung Hospital

Address: 131 Changlo Road. A. Muang Chiang Mai 50100

Phone: 053-201191, 053-280228-46

Fax: 053-271084

Website: <http://www.suanprung.go.th/>

Asian Harm Reduction Network

Address: P.O. Box 18, Chiang Mai University Post Office, A. Muang, Chiang Mai 50202

Phone: 053893175, 053893144

Fax: 053893176

E-mail: info@ahrn.net

Website: <http://www.ahrn.net/>

9.2 How do I Report a Crime?

If you have been the victim of a crime, it is a good idea to report it to the police.

1. You will need to bring your ID card to the nearest police station.
2. You will be asked a number of questions about what happened.
3. You may request the help of a lawyer, family member, or trusted friend.

If you have suffered sexual violence or think you might have been discriminated against, it can be difficult to overcome the stigma of reporting the event. However, the stigma of reporting a sexual assault or rape is not as great as it once was and this can work in your favor and the perpetrators may be punished if found by the police.

If sexual assault has taken place, you should report the crime for many important reasons, including the following:

- To keep the same person from assaulting others;
- To provide psychological closure for you; and
- To be certain about your own health and have an examination to rule out medical problems related to the assault (STI and HIV tests).

Sexual assault is an emotionally charged crime and many people, including the police, are committed to making sure those who commit acts of rape or sexual violence are prosecuted and brought to justice.

Even though it may be difficult, it is important to report sexual violence to the police as soon as possible. Although you may have many reasons for delay (such as fear, guilt, and confusion), any delay in reporting can and may be regarded as suspect and could be used to imply that you are making a false allegation.

It is important to tell family and friends immediately, and inform the police at the same time. Family and friends can be helpful during the most difficult early moments after an assault.

When reporting sexual assault, keep a record of as many details as possible, as soon as possible. Accurate recall of events will fade quickly, and documentation in sufficient detail soon after an incident is thought of as more reliable evidence in the legal proceedings that will follow.

You should note the location and time of any events. Describe the number and characteristics of the attacker(s). Write down as much detail as possible about the circumstances surrounding the assault as soon as possible after the assault. Make an effort to recall each and every aspect of what occurred during the assault and give this information to the police. Each of these details increases the chances that the suspect will be caught and successfully prosecuted. For instance it is important to record details of

- Each activity
- The sequence of activities
- How long each activity lasted
- What was said and by whom
- The number of times that resistance was offered
- The type of resistance
- Any unusual details

- Any associated physical assault
- Any pain
- Types of threats that were used
- Whether weapons were talked about, used, or seen during the assault
- Any bodily fluids seen or felt
- Any injuries that may have been inflicted on the attacker

It is important to maintain as much evidence as possible in its intact state. Do not wipe away or throw away any secretions that can be identified. Do not wash or change clothing, bedding, furniture, or any fabric. Put these items into dry paper bags and seal them.

It is important that you do not clean up by washing, showering, and douching, even though you may want to. You will be given a special sexual assault examination by trained health professionals at a hospital, and specimens that will be collected are very important in proving the guilt of the attacker. Many of these specimens contain DNA evidence that can provide conclusive proof of the identity of the attacker.

The hospital will also usually perform an STI and HIV test. Post-exposure Prophylaxis (PEP) to protect against exposure to HIV is also available for free in the case of rape and sexual assault in Thailand. PEP treatment means taking antiretroviral medications at full strength for one month. This treatment must be started as soon as possible and continued until it is completed. If PEP is taken correctly, it greatly reduces the risk of becoming HIV positive, even if you were exposed to the virus during the sexual assault. To find out more information about PEP you should talk to your doctor.

Mplus has produced an animation that teaches transgender people and anyone else who has experienced sexual violence how to access the CMU Legal Clinic. You can view the

animation online at <http://www.youtube.com/watch?v=LQ4rBIZo1qk> or visit the Mplus or BABSEA CLE website to view the animation.

Unit 10

Questions and Answers

This Unit presents common questions Mplus outreach workers might get asked during their work in Chiang Mai. We have put them here so that peer outreach workers can have an idea about the kinds of questions they might get asked as well as some possible responses. Some of the questions are about HIV and others are about laws and rights. We have separated them here into two sections.

10.1 Question & Answer (Q&A)

Question 1: If I have sex with someone who has HIV, but use a condom, will I be at risk of exposure to HIV or not? Are condoms 100% effective?

A: Using condoms every time you have sex is the best way to prevent exposure to HIV. Condoms are very effective in preventing HIV when they are used correctly. Many people do not use condoms consistently or correctly and thus risk exposure to HIV. It is important to always use condoms correctly, so that they do not break or slip off during sex. So if you do not want to worry about HIV exposure and enjoy sex, use a condom and water-based lubricants every time you have sex, regardless of whether your partner has HIV or not. It is important to understand that oil-based products like Vaseline and massage oil are not suitable lubricants because they can cause condoms to break or tear.

Question 2: How are HIV and other sexually transmitted infections (STI) related?

A: People get HIV and STIs through having sex with another person who is already has HIV or an STI. Having an STI increases your chances of getting HIV from your sexual

partner and of transmitting it to other partners. If you get treated for and are cured of your STI, your chances of getting HIV decreases, but are not eliminated.

Question 3: Is it true that the person who has many sex partners has a higher probability of getting HIV than a person with only one sex partner?

A: No matter how many sexual partners you have, if you do not use condoms and water-based lubricant, you have a much higher risk of getting HIV. People have sex because it is pleasurable and enjoyable. Having sex is healthy. Having many sex partners may put your more risk of contracting HIV, but if you practice safe sex, you reduce your risk.

Question 4: If I get drunk, is it easier to get HIV?

A: Drunkenness or being high on drugs like ecstasy ('Yaa Baa') might cause you to 'forget' to use a condom. When people are drunk or high, they don't always remember to use a condom or use a condom correctly with water-based lubricants. This can increase your risk of getting HIV or another STI.

Question 5: Is it necessary to use a condom every time I have sex with my long-term partner?

A: Even though you live together, you may not know if your partner is having sex with other partners, so it is always best to protect yourself. When you have sex with your long-term partner, it is a good idea to always use a condom and water-based lubricant, that way you don't have to worry about anything and you can enjoy your sexual pleasure.

Question 6: Does having an orgasm outside the body (pulling out before I come) help prevent HIV?

A: In the case of HIV and STI, the answer is a resounding NO! Having an orgasm outside the body or pulling out does not prevent you from getting HIV or an STI. Pulling out, or withdrawal, is not an effective method of preventing HIV or STIs because most disease-causing micro-organisms do not depend on ejaculation for transmission. A condom will only help prevent the spread of STIs if you put it on before sex and leave it on the entire time you are having sex. Also, it just isn't good sex. If you're worrying about being sure to pull out before you come, you can't really enjoy sex, so it is best to wear a condom and not worry.

Question 7: Does it hurt having anal sex the first time and how do you get over the pain?

A: How painful anal sex is depends on the person. A good way to make it less painful is by using a condom with a water-based lubricant. You can tell your partner about what you are feeling so that you both experience pleasure, rather than pain, during anal sex.

Question 8: When I meet someone who looks very smart, fair-skinned and clean, is it necessary to use a condom, or not?

A: You can never tell from outside characteristics or symptoms whether a person has an STI or HIV. Just because she or he is smart, white-skinned, clean and healthy looking it does not mean they DO NOT have ns STI or HIV. Anyone could have an STI or HIV, that's why you should always use condoms so you don't have to worry about getting an STI or exposure to HIV.

Question 9: For oral sex, is it necessary to use a condom?

A: Oral sex is considered to have a low risk for HIV infection unless a person has problems with oral hygiene leading to bleeding gums, sores or has cuts in their mouth. In this case the risk of STI of HIV transmission through oral sex can be high. HIV and other STIs, such as gonorrhoea, syphilis or herpes, can be transmitted through oral sex, so if you don't want to worry, and you want to enjoy oral sex, use a condom. You can use fruit-flavoured condoms to make oral sex more enjoyable.

Question 10: Can HIV be transmitted through kissing?

A: HIV cannot be transmitted through the exchange of saliva, but you could transmit the Hepatitis B virus or herpes through kissing.

Question 11: How do you know if someone has HIV?

A: There is only one way to know if someone has HIV, which is through a blood test. HIV blood tests should be completely voluntary, and not forced.

Question 12: By having an HIV blood test, does it prevent you from getting HIV?

A: Having an HIV blood test does not prevent HIV transmission, it just lets you know whether you have been exposed to the virus or not. Also, the blood test will only show a result approximately 3 months after exposure. The most effective protection against HIV exposure is through the use of condoms and water-based lubricants.

Question 13: If you masturbate often, do your sexual abilities worsen?

A: They will not worsen. In fact masturbation will cause relaxation, and may even protect you from STIs. For example, if you have many sexual partners, changing the kinds of sex you have to less risky sex, like masturbation, will lessen your risk of getting HIV.

Question 14: Will using two condoms protect you more from HIV and STIs? Will it be safer?

A: NO! It will not increase your protection or make sex safer. Instead it might put you at greater risk. Using two condoms might cause the condoms to tear due to friction and abrasions when the condoms rub together during intercourse. You should only use one condom at a time with water-based lubricant. In addition, if you are having sex for long periods of time you should change condoms every half an hour and reapply water-based lubricant. You should use a new condom each time. You should never reuse condoms. . If you are having sex with more than one person at a time, you should also change the condom each time you insert your penis into another person.

Question 15: Can we use lotions, Vaseline or soap as lubricants?

A: No, you cannot use them; the main ingredient in these substances is often oil, which can cause the condom to break. It is best to use a water-based lubricant.

Question 16: Is it true that if you carry a condom around with you all the time, you cannot find a partner to have sex with?

A: No! This is an urban legend. It is good that you carry a condom around with you, as you will always be prepared. Don't forget to also carry water-based lubricant.

Question 17: Before I get a blood test, what information do I need?

A: You will need to know information about STIs, HIV and AIDS. You should also learn about the actual blood test and how it is done, and what to do once you get your results back. Whether you want a blood test or not depends on yourself and your needs, not on anybody else. You should refer to Unit 7 for more information about consent and having blood tests.

Question 18: How do you read the results of an HIV blood test?

A: HIV positive (+) means that you have HIV. HIV negative (-) means that the test could not find any traces of HIV. A test result can be HIV negative, HIV positive, or indeterminate. If you test HIV negative, it probably means that you do not have HIV, but it could mean that you took the test too soon after exposure to HIV for the antibodies to have developed. If you test HIV positive, it is almost certain that you have HIV. The chances that an HIV-positive result is wrong, are very low. An indeterminate test result means that it is not clear whether you have HIV or not, so you should take the test again. Also, whether you test HIV negative or HIV positive, you sometimes might be asked to take the test again to be sure of the result.

Question 19: What are the good aspects of receiving a HIV positive result from my blood test?

A: If you know you have HIV you may have to begin an ART regimen. The good aspects of receiving a positive test result is that you will be able to take better care of your health and still enjoy sex as long as you always use a condom to protect your sexual partners.

Question 20: What happens if I receive a HIV negative result from my blood test?

A: You will feel relieved. But after that, so that you can continue to enjoy sex and do not have to worry about getting an STI or HIV, you should use condoms to protect yourself every time that you have sex.

Question 21: Where can MSM go to get a sexual health test and treatment, including HIV blood tests in Chiang Mai? How much does it cost?

A: Tests are available at the following locations:

Location	Telephone	Opening Hours and Costs
Office of Disease Prevention and Control - Number 10, Chiang Mai Chiang Mai Provincial Public Health Office Address: 447 Thanon Lamphun T. Wat Geht, A. Muang Chiang Mai, 50200	Telephone: 053 213-636 and 053-140774-6 to 114-7 Fax: 053-140773 Website: http://dpc10.ddc.moph.go.th/	Opening Hours: Every Wednesday 5p.m. – 8 p.m. Saturday-Sunday 8.30 a.m. – 12 a.m. Cost: 80 baht for blood test. You will need to bring your ID Card. Please note that this service is

		anonymous.
Thai Red Cross Station 3, Volunteering Counselling and Testing (VCT) service Address: 369/371 Wishayanon Road, Chiang Moi A.Muang Chiang Mai, 50200	Telephone: 053-235-161 	Opening Hours: Monday-Saturday 8am – 4pm (office close on Sunday and Public holiday) Cost: Prices vary depending on how quickly you need the results. For results in 3 days for result, the cost is 80 baht. For results in half an hour, the cost is 200 baht.
Piman Center Voluntary Counselling and Testing service Address: Nimmanhaemin. Soi 13. Suthep Road. A.Muang Chiang Mai, 50200	Telephone: 053 211-363 Mobile phone. 085 520 1176 e-mail: pimancenter@hotmail.com	Opening Hours: 11 a.m.- 6 p.m. (you must make an appointment by calling before) Cost: There is no fee for a blood test if you are over 18 years old, MSM and live in Chiang Mai or Lamphun Province.

For HIV Blood testing and STI testing, you can also use social security or universal health care service. In case of financial hardship (such as transportation) you can use receipt to get support from Mplus (please contact Khun Sirisak Chaithesh, Tel 085 029-1863)

Question 22: How can I prevent myself from getting HIV?

Here are some options you can choose from to reduce your risk of getting HIV:

1. Do not have sex (vaginal, oral or anal). For most people this is not a realistic choice - sex is part of our life and we enjoy it - and that is fine.
2. If you enjoy sex with just one partner:
 - Encourage your partner and yourself to take the HIV test, especially if you want to have unprotected sex between the two of you;
 - Use a condom and water-based lubricants every time you have sex, especially for anal and vaginal sex.
3. If you enjoy sex with more than one partner, strategies to reduce your risk can be to:
 - Use a condom and water-based lubricant each time you have anal/vaginal sex;
 - Be open and talk to your sex partner(s) about your sexual past and about your sexual health;
 - Reduce the number of partners and sexual encounters you have; and
 - Reduce or limit the type of sex you have with your partners - i.e. have more oral sex, mutual masturbation, thigh sex, rubbing, hugging etc and less anal sex;
4. Do not share needles or syringes if you use drugs.

10.2 Questions about Law and Rights

Question 1: If MSM people in Chiang Mai assemble to hold a Gay Pride Parade, is this wrong?

A: To assemble for a community activity is not wrong, no matter what gender or sexual orientation you are. When the 2nd Chiang Mai Gay pride parade was cancelled, all people were victims. MSM, gay, bisexual, transgender and their straight friends suffered discrimination and a violation of their rights. The Gay Pride parade was supposed to emphasise HIV/AIDS awareness and rights for MSM, transgender and their straight friends. The parade's ideas and values did not destroy Lanna culture as some political groups claimed. When the Red Shirts stopped the parade and harassed parade participants, this was illegal and a violation of their legal rights because the parade organisers had a permit to have the parade.

Question 2: What can a migrant sex worker do if he/she is arrested because he/she has no ID card and the police impound his/her motorbike?

A: Sex work is illegal in Thailand. If a migrant sex worker is arrested, he/she may find it difficult to get help because they are working in Thailand illegally. There is still little support for migrant worker's rights. This means they should be careful and avoid using a motorbike. Migrant sex workers may be able to contact the Chiang Mai University Legal Clinic or MAP foundation for assistance with the law. Details on how to contact MAP Foundation and the CMU Legal Clinic can be found in Unit 9.

Question 3: Is it against the law to give HIV to another person?

A: In the past HIV was listed as a disease in the *Contagious Diseases Act*, this meant that people living with HIV were considered by the law to be very infectious (like people with *Sexual, Human and Legal Rights for Chiang Mai's MSM, MSW & TG Communities*

avian influenza) and were often kept in isolation. HIV is no longer listed under the *Contagious Disease Act* in this way.

Thailand has no specific laws that make it a crime to have unprotected sex, there are also no specific laws regarding any consequences which may flow from having unprotected sex (such as getting HIV). However, the Criminal Code has been used to charge people who transmit serious contagious diseases (especially HIV, Hepatitis B and C and syphilis). However, it is difficult to prove that giving someone HIV is a crime under the current criminal law. This is because the offence against life and body in the Criminal Code requires that the action of the person (in this case transmitting HIV) caused harm to life or body of another person. In the case of transmitting HIV the results of the action are not immediately visible because the virus needs a period of time to incubate and it may be difficult under the current law to show that transmitting the disease to another actually caused harm to that person's life or body. This can create some difficulty in charging and prosecuting the person who transmits the disease. Also, if the person who has HIV dies before or during the trial, the right to prosecute that person would end on their death. Despite this, there are still recent cases of people being charged under the Criminal Code with this offence.

Further information: See <http://www.gnpplus.net/criminalisation/>

Question 4: If a worker at a massage bar becomes sick but they do not have any insurance card, how can they access health care services?

A: In a case about a sexual disease (STI and/or HIV/AIDS), they can visit Mplus' drop in centre from 5.00pm to 7.00pm at 9/2 Samlan Road. Soi 6. T. Prasing. A. Muang Chiang Mai, Thailand. 50200

Mplus will refer them to STI Centre Area 10 in Chiang Mai.

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Sexual Disease Centre Area 10

Centre of Venereal and Sexually Transmitted Infections Area 10

A. Muang Chiang Mai 50200

Tel.053-213636

Call Centre 080-6791754

Hours: Open every Monday–Friday: 08.00-16.00/Wednesday 16.30 -20.00/Saturday
08.30-12.00

Mplus may also refer to:

I – Teen Centre

Chiang Mai Provincial Public Health Office

T.Suthep. 10 Suthep Road. A.Muang, Chiang Mai 50200

Call Centre: 08 0679 1754

I-Teen provides free information for young people

Question 5: What should an MSM or Transgender person do if they are arrested, because they are carrying a condom at CMU Park late at night? Especially when the police report they were strolling around the park to engage in prostitution? How does the MSM or transgender person deal with the police and get help?

A: The police cannot arrest someone just for carrying a condom, because everyone should carry condoms for safe sex. However, if a person enters a place where strolling at night is against the law, they might be arrested. The laws about strolling at night ('dtre dtre') have largely been repealed. To avoid arrest, you should always observe the closing time of parks and not go there during hours when they are closed. You should always be respectful to

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police at all times and try not to anger them. You should not tell the police that you know your rights and the law, as this may make them angry. You should be polite and if you are able, you could try and write down the name of the police officer or call your friend and tell him/her the police officer's name. You have the right not to say anything if you are arrested and you should remain silent. You also have the right to a phone call and you can use this to call a lawyer or a trusted friend or family member. You may refer to Unit 9 for details of free legal services and lawyers.

Question 6: What NGOs are working for MSM and Transgender rights and sexual health in Chiang Mai?

A: Mplus, Thailand and Rainbow Sky Association of Thailand (RSAT) have been working for MSM and transgender people in these areas. Violet Home has been working with MSM who are living with HIV. Their main goal is care and treatment for people living with HIV as well as psychosocial support and social activities. You may refer to Unit 9 for contact details and information of these NGOs.

Question 7: If someone who is a street based transgender sex worker at Ta-pae and Loi Klorh Road is arrested or questioned by police. Where can they go for help?

A: Anyone who feels that the police have treated them unfairly can visit the Chiang Mai University Legal Clinic. An officer from the legal clinic Chiang Mai University can help you:

Legal Clinic, Faculty of Law, Chiang Mai University

Sexual, Human and Legal Rights for Chiang Mai's MSM, MSW & TG Communities

Faculty of Law, Chiang Mai University

329 T.Suthep. A. Muang Chiang Mai 50200

Phone: 053-943589

E-mail: cmulawclinic@gmail.com.

At the Chiang Mai University (CMU) Legal Clinic you can get free advice and help. Additionally, Mplus has produced an animation that teaches transgender people and anyone else who has experienced sexual violence how to access the CMU Legal Clinic. You can view the animation online at <http://www.youtube.com/watch?v=LQ4rBIZo1qk> or visit the Mplus to view the animation.

ⁱ To access this manual see <http://www2.unescobkk.org/hiv aids/databases/publication.aspx?id=306>