

Sexual Health and Rights

Sex Workers, Transgender People & Men Who have Sex with Men

Thailand

OPEN SOCIETY INSTITUTE
Network Public Health Program
Sexual Health and Rights Program

Liz Cameron
Consultant

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LIST OF ABBREVIATIONS

AIDS	Acquire Immune Deficiency Syndrome
ARV	Antiretroviral
CUP	Condom Use Policy
HIV	Human Immunodeficiency Virus
HRT	Hormone Replacement Therapy
LGBT	Lesbian, Gay, Bisexual, and Transgender
MOU	Memorandum of Understanding
MoPH	Ministry of Public Health
MSM	Men Having Sex with Men
NGO	Non- Governmental Organization
OH&S	Occupation Health & Safety
OSI	Open Society Institute
PLWHA	People Living with HIV/AIDS
SHARP	Sexual Health and Rights Program
SHR	Sexual Health and Rights
STD	Sexually Transmitted Disease
STI	Sexually Transmitted Infection
TNCA	Thai NGO Coalition on AIDS

LIST OF KEY ORGANIZATIONS + DONORS

Key organizations working directly with sexual health and/or rights of transgender people, sex workers and/or men who have sex with men in Thailand

Chiang Mai

<i>Organization Name</i>	<i>Population</i>
Empower Foundation	Women sex workers
Rainbow Sky/Mplus+	Transgender people, men sex workers, MSM
Thai Youth AIDS Program Mplus+ (men)	Youth Sexuality and HIV
Violet House	Men who have sex with men

Bangkok

Bangkok Rainbow	Transgender people, men sex workers, men who have sex with men
Empower Foundation	Women sex workers
Rainbow Sky Association	Lesbian, Gay, Transgender Bisexual
SWING	Men Entertainment Workers

Pattaya

Population Services Int.	Lesbian, Gay, Transgender Bisexual
SWING	Men Entertainment Workers
Sisters	Transgender sex workers

Phuket

Empower Foundation	Women sex workers
Rainbow Sky Association	Lesbian, Gay, Transgender Bisexual

Key donors for sex workers; transgender people; men who have sex with men,

Family Health International via USAID
Global Fund Against HIV/AIDS, TB and Malaria via MoPH and Raks Thai (CARE Thailand)
MoPH Collaboration on HIV
Rockefeller Foundation via Aids net
Thai Red Cross
UNAIDS
UNESCO
US CDC

EXECUTIVE SUMMARY

Background to the Study

SEXUAL HEALTH AND RIGHTS PROGRAM (SHARP)

In April 2005, the Network Public Health Program (NPHP) of the Open Society Institute officially launched the Sexual Health and Rights Program (SHARP) in order to develop and implement a global strategy to improve the sexual health and rights of socially marginalized populations.

The Sexual Health and Rights Program will provide a new, targeted approach to meeting the needs of socially marginalized populations. Specifically, SHARP seeks to address health concerns and rights violations of those who engage in high-risk sexual practices and are identified—either self-described or perceived by others—as part of a marginalized group. The growing epidemic of HIV/AIDS among such vulnerable populations is of particular concern.

This mapping exercise aims to provide SHARP with an understanding of the sexual health and rights situation of sex workers, men who have sex with men and transgender people in Thailand, with a specific focus on their HIV concerns. The study was conducted between January and March 2006 in Thailand. Information was gathered through document review and interviews. This information was then collated and analyzed in workshops and interviews with men who have sex with men, transgender people (specifically man to woman) and sex workers. Their experiences, priorities, and recommendations were collected and written up to form the basis of the document.

Defining Sexual Health and Rights

In 2000, the World Association of Sexology (WAS) and the Pan American Health Organization (PAHO) defined sexual health as ‘The experience of the ongoing process of physical, psychological, and socio-cultural well being related to sexuality. It is the free and responsible expression of sexual capabilities that foster harmonious personal and social wellness, enriching individual and social life. For sexual health to be attained and maintained, it is necessary that the sexual rights of all people be recognized and upheld.’

In an article published in 2005 “Sexual Health Promotion in Thailand” Dr. Verapol Chandeying of Songkla University quoted and expanded on this definition. “Sexual rights include the rights of all people to: (1) decide freely and responsibly about all aspects of their sexuality, including protection and promoting their sexual and reproductive health; (2) be free of discrimination, coercion or violence in their sexual lives and in all sexual decisions; and (3) expect and demand equality, full consent, mutual respect, and shared responsibility in sexual relationships.”¹

Dr. Chandeying’s expanded definition of sexual health and rights will be used throughout this report.

Overview

¹ Sexual Health Journal CSIRO, September 20, 2005.

Thailand is a predominately Buddhist country with a culture that values non-confrontation and emphasizes the need for the individual to strive for smooth relationships in the family, community and society. There are distinct hierarchies and roles based on age, gender and wealth that individuals generally comply with. Those who break or defy social mores in Thailand are not directly challenged but rather they are ignored and rejected from society. Social alienation in Thailand is often a very subtle, but an extremely painful and debilitating force for those who experience it.² The visibility in society of sex workers and transgender people does not mean acceptance. Along with many men who are open about having sex with men, they are highly stigmatized and socially sanctioned members of Thai society. Sex workers also bear the added stigma of “criminal” as sex work remains illegal. The Thai word for stigma has its origins in the long abandoned Thai practice of branding the faces of prisoners with a tattoo proclaiming the crime they had committed.³ A group of Thai sex workers explained that stigma is experienced as “being excluded, being looked down on, being treated as having less worth than others, being spoken about and to in a derogatory way”⁴ The Thai word’s origins and current application fit with sociologist Erving Goffman’s definition of stigma as an “attribute that is deeply discrediting and that reduces the bearer from a whole and unusual person to a tainted, discounted one.”⁵ The sex workers, transgender people and men who have sex with men who participated in this report all identified social stigma as the major barrier to achieving good sexual health and realizing their rights. All participants also pointed out the potent role the media plays in reinforcing the negative stereotypes.⁶ Social stigma and negative stereotypes are best addressed in Thailand by the use of art and culture, allowing and encouraging people to challenge their own beliefs, to see things from a new perspective and to think for themselves.⁷

In 1997, the Constitution of the Kingdom of Thailand was adopted. Section 30 of the Constitution states: “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, physical or health condition, personal status, economic or social standing, religious belief, education or constitutionally political view, shall not be permitted.”⁸

In 2000, the Thai Ministry of Public Health (MoPH) created the strategic statement of the National Health Act for Health System Reform, which reads: “All Thai citizens, regardless of

² Anjana Suvarnananda Dear Uncle Go: Male Homosexuality in Thailand, Bangkok: Jackson Bua Luang Books, 1995.

³ Reformation of the Thai legal system at the Beginning of the 20th century: Chachapon Jayaphorn August 2005 The Chulalongkorn Law Journal.

⁴ Discussion with sex workers on stigma February 2006.

⁵ Erving Goffman Stigma: Notes on the Management of Spoiled Identity, 1963.

⁶ Workshops and interviews conducted with sex workers and men who have sex with men Bangkok and Chiang Mai January and February 2006.

⁷ Personal communication Chumpon Apisuk Artist and HIV Activist Bangkok, January 2006

⁸ Constitution of the Kingdom of Thailand, Section 30 found at www.onec.go.th/Act/ed_constitution.html.

sex, age, occupation, religion, locality, race, education and economic status, will live a normally happy life, physically, mentally and socially.”⁹

Both the Constitution and the strategic statement of the National Health Act would seem to support underlying principles of equality and non-discrimination in law, policy, health services and society. However, many laws and social attitudes seem to support only Thai men’s right to have sex with women, including the right for men to control some important aspects of women’s sexual health. For example, doctors routinely require married women get written consent from their husband to have a tubal ligation.

Many of the laws on the books in Thailand serve to codify traditional ideas of rape and gender identity.¹⁰ According to the Thai Penal Code, rape in marriage is not a crime, even if the couple has been separated for a long period of time. Husbands can sue for compensation if another man rapes their wife. The law does not recognize rape of boys, men or transgender people, as the definition of rape under Section 276 is confined to a penis entering the vagina.¹¹ At the same time, a transgender person, man to female, is still considered a man under the law, in hospitals and in prisons.¹²

The criminalizing of sex work creates barriers to sexual freedoms and human rights for sex workers.¹³ Changes to the legal status of sex work and law enforcement practices are needed to support sexual health and rights of sex workers, who routinely face severe discrimination and police abuse.

Thailand’s National Health Plan addressed the issue of HIV in 1987, three years after the first reported case. The plan outlined an “emphasis on public participation in health development and campaigns against HIV/AIDS so that it would not impact national security.”¹⁴ The HIV reached epidemic levels in 1990, and many have credited Thailand as a pioneer in HIV prevention efforts in Asia, where in many cultures the shame in discussing sex openly has hampered attempts to curb the spread of the virus. Thai society, however, sets aside social taboos—the budget to fight the epidemic increased 50-fold, and radio and television stations were required to broadcast AIDS education. And in a move that demonstrated the government’s commitment to HIV prevention, the prime minister became the head the National AIDS Committee.

Nevertheless, at the peak of the epidemic in Thailand some 143,000 new infections were recorded every year. Families were decimated, as more than 500,000 people died of AIDS-related diseases over the 1990s. At least another 500,000 people are now living with HIV.

⁹ Executive Committee on Health Development Plan 8th National Economic and social development plan, 1997–2001.

¹⁰ Interview with Pornpit Puckmai Coordinator Empower Chiang Mai January 2006

¹¹ Interview Pranom Somwong, MAP Foundation, Chiang Mai, February 2006.

¹² Interview with male to female transgender people, Bangkok, January 2006.

¹³ Interview with Chantiwipa Apisuk, Director, Empower, Bangkok, January 2006.

¹⁴ National Health Development Plan under the 6th National Economic and Social Development Plan (1987-1992)

Initially, anti-retroviral (AVR) drug therapy was well beyond most people's economic means. In the mid-late 1990s, access to treatment became a new focus for HIV advocacy in Thailand, and the Government Pharmaceutical Organization (GPO) began producing low cost AVR drugs in 2001. Senior health official Thawat Suntrajarn credits increased access to ARVs for the fall in the death rate from AIDS-related illnesses from around 6,000 in 2004 to 1,500 in 2005. Although, currently the MoPH claims 60 percent of people who need ARVs have access to them, the reality is more complicated (See page 19).¹⁵ Furthermore, people living with HIV/AIDS and NGOs are concerned that the budding Thai–USA Free Trade Agreement, particularly the sections on intellectual property rights may endanger local production of ARVs. "If the Thai government accepts the US proposal, it will negate the important steps taken to provide universal access to HIV/AIDS treatment and force people living with HIV/AIDS and other illnesses to pay the price." said Ellen 't Hoen, Director of Policy Advocacy for MSF's Campaign for Access to Essential Medicines.¹⁶

The need to maintain pressure on the government to continue to improve provision of AVR therapy and AIDS budget cuts has resulted in a reduction in both government and non-government HIV prevention campaigns.¹⁷ The U.N. Development Program warned in July 2004 that there were clear signs of AIDS resurgence, with government spending on HIV/AIDS programs dropping from \$82 million in 1997 to \$25 million in 2003. Prevention activities currently only make up 7.6 percent of the AIDS budget.

HIV infection rates are beginning to climb again particularly among 15-21 year-olds, who missed the ongoing public education campaigns of the 1990s.¹⁸ "With the demise and disappearance of public education, people think it's gone. I've had some kids say to me, 'Is AIDS still around?' The government budget, the lack of dedication, the prime minister's abdication from his role (as head of the National AIDS Committee), and the consequent weak public education program has resulted in what we have today: a tremendous increase," said Senator Mechai Viravaidya.¹⁹

The HIV epidemic brought many social issues to the forefront in Thailand, especially those of social equality and civic participation in decision-making processes. During the height of the epidemic there was extensive collaboration between the government and civil society. A diverse range of government departments, faith based groups, community groups, NGOs and groups of people living with AIDS worked tirelessly to raise awareness, distribute condoms, and promote safer sex. Alarming, these prevention efforts have all but ceased and urgently need revitalizing by a new generation of activists and leaders. Including information about anal sex and sex with a surgically created vagina is essential in all general HIV education campaigns.

¹⁵ Thanta Laovilawanyakul Health Coordinator Empower

¹⁶ *Surmounting Challenges: Procurement of Antiretroviral Medicines in Low- and Middle-Income Countries* (MSF, UNAIDS, WHO; 2003)

¹⁷ Medical Staff Department of Disease Control Chiang Mai January 2006

¹⁸ Interview with Dr. Surasin Department of Disease Control Chiang Mai January 2006

¹⁹ "Thailand's Mr. Condom says AIDS is back" USA Today Associated Press, July 8, 2005

The 100% Condom Use Policy (CUP) adopted in Thailand during the early 1990s attempted to control the epidemic by discouraging men from buying sex and using women sex workers to ensure men used condoms. The policy, however, was deeply flawed in its approach. In focusing on sex workers as “disease spreaders,” it failed to promote widespread condom use and overlooked sex workers’ own health needs.

Women sex workers believe the 100% CUP was motivated by a concern that men would infect their wives, not that they would infect women sex workers, who were stigmatized as the chief conduit of HIV.²⁰

They said that while the 100% CUP did provide them with condoms, lubricant was not provided, and they received little support in their efforts to make men use condoms. And while the policy succeeded in convincing some men to avoid sex workers, men continued to have unprotected sex with other partners. Although women sex workers report that customers’ willingness to use a condom increased to around 60 percent, their boyfriends, husbands and lovers outside of work remained unwilling, as men feel safe if the “sex is not with a sex worker”.²¹

Sex workers’ findings are reflected in the UNAIDS report “Thailand’s Response to HIV/AIDS: Progress and Challenges.” The report found “men who frequent sex workers tend not to use condoms consistently when having sex with fiancées and girlfriends.” The report went on to say, “While remarkably effective in reducing HIV transmission between sex workers and their clients, prevention efforts appear to have been much less effective in non-commercial sexual relationships.”²²

Sexual health and rights, especially those of women sex workers who were the major focus of the campaigns, were not a part of the 100% CUP or any other national HIV prevention programs. They only addressed sexual disease, not sexual health overall.²³

At the same time men sex workers, transgender people and men who have sex with men were left out of public policy and campaigns. Men sex workers and men who have sex with men are pleased but cautious about the recent interest in their HIV protection issues from both government and donors. However, they warn against prioritizing data collection over prevention. “We need a supply of proper condoms, lubricant and sexual health services first... before anybody starts testing, counting and collecting statistics.” They also worry that badly managed campaigns, not managed by them, could increase the stigma associated with their work, as has happened for women sex workers.²⁴

Promoting sexual rights is made harder by the fact that “the main organizers of the transgender and men sex worker activities are beholden to USAID funding restrictions,

²⁰ Interview Pornpit Puckmai Coordinator Empower Chiang Mai January 2006

²¹ Workshop participants (women sex workers) Empower Chiang Mai, February 2006

²² The Goal posts Move: A Changing Epidemic (2004-) UNAIDS 2005 www.unaids.org

²³ Interview Chantiwipa Apisuk Director Empower Foundation Bangkok January 2006

²⁴ Men sex workers SWING January 2006 , Bangkok

requiring they oppose sex workers rights...they can't talk about rights."²⁵ USAID funding restrictions mentioned here refer to current U.S. law, specifically the 2003 Global AIDS Act and 2003 amendments to the Trafficking Victims Protection Act, requiring organizations receiving U.S. global HIV/AIDS and anti-trafficking funds to adopt specific organization-wide positions opposing prostitution. In a letter to George Bush, Human Rights Watch and a group of more than 200 leading public health and human rights experts and organizations reported that, "These policies run contrary to best practices in public health and will undermine efforts to stem the spread of HIV and human trafficking." The letter also voiced concerns that "the broad language of the restrictions increases the risk that organizations will self-censor or curtail effective programs for fear of being seen as supporting or promoting prostitution."²⁶ Making secure funding available to sex workers without such restrictions would allow them to pursue advocacy for sexual health and rights.

Thailand is a constitutional monarchy that is often described as a "fragile democracy"²⁷. Thailand should be congratulated for its past commitment to HIV issues and becoming one of the few countries in Asia to produce generic ARVs and rapidly scaling up access. Thailand is also one of the first countries in Southeast Asia to develop a Universal Health Care Scheme. The National Plan for Health reform (2001-2006) has seen major restructuring of health management and budgeting. A review of the Thai Health Policy by the Bureau of Policy and Strategy, MoPH in 2005 found that policy content seems to have a sound direction, which is a result of the accumulated experience and knowledge in Thai society. However, it also stated that, "rapid policy implementation has threatened the policy sustainability to some extent since existing health infrastructures, including health personnel, have limited capabilities to perform their new roles and functions. Moreover, there are still problems of under-funded and less-than-ideal quality of medical services".²⁸ Of particular relevance here is the decrease in the AIDS prevention budget, the elimination of free condom distribution, closure of public STI clinics, and health worker shortages. In addition, under the leadership of Prime Minister Thaksin Shinawatra, who resigned in 2006, Thailand has seen a sharp increase human rights violations and antidemocratic changes to its constitution that have raised concerns within Thailand and internationally.

Ongoing social stigma and discrimination towards sex workers, past neglect and indifference to the situation of men who have sex with men, USAID funding restrictions and the government's inherent sensitivity to preserving a positive image of Thailand, make it both timely and challenging to support these marginalized groups in their struggle to attain good sexual health and exercise their sexual rights.

²⁵ Personal communication Andrew Hunter ; Asia Pacific Network of Sex Worker Projects Bangkok February 2006

²⁶ Letter to President Bush Opposing Mandatory 'Anti-Prostitution Pledge,' which Threatens Lives of Sex Workers and Trafficking Victims May 18, 2005 Human rights watch www.hrw.org

²⁷ Williams, D.C., Thailand on the precipice. *Asia Times online*. February 28, 2006 at www.atimes.com; Crossant, A & Pojar, D. Jr. Quo Vadis Thailand? Thai politics after 2005 parliamentary election. *Strategic Insight*. Vol. IV, iss 6, June 2005.

²⁸ Health policy in Thailand 2005 Bureau of Policy and Strategy Ministry of Public Health 2005 English version : <http://203.157.19.191/HealthPolicy.pdf>

PRIORITIES

In discussions with transgender people, sex workers, and men who have sex with men, they have identified several key areas in achieving full sexual health and rights, especially in regards to HIV:²⁹

- ❖ Eliminating the social stigma that impedes sexual health and rights
- ❖ Achieving the right to have legal identity reflect a person's self-identified gender
- ❖ Decriminalization of sex work* (full explanation below)
- ❖ Impartial law enforcement
- ❖ Safer sex
- ❖ Access to appropriate and good quality sexual health services

*Decriminalization of sex work includes the following: offering migrant entertainment workers registration and allowing independent workers access to social security; revoking Articles 5,6,7 and 9 from the Suppression and Prevention of Prostitution Act 1996; regulating entertainment places under existing laws regarding work places. Recognizing entertainment workers as employees under the Labor Protection Act 1998 and National Social Security Act 1997 and allowing independent workers to join the Social Security scheme; including migrant entertainment work under the worker registration policy in line with the cabinet resolutions on the Foreign Labor Act 1978.

Potential Areas of Intervention for Funding Support

Short-term priorities:

- ❖ Arrange meetings with the National Human Rights Commission and Thailand Council of Lawyers to request a review of the legal restrictions to changing gender on identity documents.
- ❖ Initiate dialogue with the Press Council of Thailand to strategize urgently needed changes in the way transgender people, sex workers and men who have sex with men are represented in the Thai media.
- ❖ Urgently revitalize community safer sex campaigns. As men have the final say in whether sex is safe or not, men should be targeted in these campaigns. Information

²⁹ Compiled, February 2006, from workshops and interviews with transgender people, sex workers and men who have sex with men. Bangkok and Chiang Mai, January – February 2006

about safer anal sex and sex with surgically constructed vaginas should also be included in campaigns.

- ❖ Advocate for the inclusion of the sexual health service needs of sex workers, transgender people, and men who have sex with men in the next strategic National Health Plan 2007-2012 based on information supplied by direct consultation with community leaders from these groups.
- ❖ Convene a network meeting among all sex worker organizations in Thailand to develop future joint goals; strengthen communication and plan common strategies.
- ❖ Provide support for direct participation in national, regional and relevant global forums such as the upcoming World Social Forum, Bangkok; the International AIDS Conference, Toronto, August 2006; the WHO 6th Global Health Promotion meeting, Thailand, August 2006; the Asia Oceania Congress of Sexology, Bangkok, November 2006; the 4th Asia Pacific Reproductive and Sexual Health Conference (TBA).

Long-term priorities:

- ❖ Support further initiatives for men who have sex with men to explore issues of identity, and identify commonalities and differences, if any, between the sexual health and rights issues for men sex workers and men who have sex with men who are not sex workers.
- ❖ Facilitate incorporation of the sexual health service needs and rights of transgender people, sex workers, and men who have sex with men into all health service provider training curriculums.
- ❖ Increase awareness about the sexual health and rights of men who have sex with men. The recent and increasing focus on the particular risks they face presents an opportunity for advocacy. However, it also threatens to increase stigma. Therefore, urgently ensure the involvement of men sex worker community leaders and men who have sex with men in all current policy and programming approaches being considered.
- ❖ Reach out to young transgender people and young men who have sex with men to involve them in a review of sex education curriculum development and delivery, including teacher training.
- ❖ Strengthen ongoing programs advocating for sex workers' sexual health and rights.
- ❖ Strengthen and support programs and activities that use art and culture to reduce stigma.

- ❖ Reinitiate appropriate condom availability with the inclusion of lubricants and expand these efforts to include place-based distribution in areas where men who have sex with men socialize. These place-based initiatives should be designed and managed by men who have sex with men community leaders. Condom and lubricant access in police lock-ups and prisons also needs urgent attention. The government promise of cheap condoms from vending machines in public places offers an excellent opportunity for collaboration.
- ❖ Establish systems so that community-based groups whose members often have minimal literacy skills have equal access to funding as those with more resources.

Recommendation

In Thailand, the best funding strategy would be providing support to both existing and new initiatives that prioritize a rights-based approach to sexual health such as advocacy for policy and law development and addressing institutionalized and social discrimination. This would involve capacity strengthening of NGOs and networks and associations of sex workers, transgender people, and men who have sex with men.

I- METHODOLOGY

The assessment was conducted between January and March 2006 in Thailand and focused on the two major urban centers, Bangkok and Chiang Mai. The methodology was organized around information gathering through document review, interviews with key government agencies and service providers. Sex workers, men who have sex with men and transgender people were encouraged to critique and analyze their situation through interviews and workshops in order to identify priorities.

1- Information gathering through three channels:

- Review of documents:
During the first week an extensive document and report review was undertaken to explore the broad picture of sexual health and rights for sex workers and men who have sex with men with particular attention to references to HIV/AIDS education, prevention, access to services and care.
- Interviews of policy makers, health care programs managers, NGO leaders, service delivery staff, legal advisors, etc.
- Workshops and interviews with sex workers and men who have sex with men.

2- Review of policies surrounding HIV/AIDS through interviews with government agencies and service providers.

An interview guide was developed with the following questions:

- ❖ What factors may make some men who have sex with men and some sex workers in Thailand more vulnerable to HIV than others?
- ❖ What are the relevant Thai national policies and/or laws that act as a barrier to men who have sex with men or sex worker's achieving sexual health rights? What are those that work to promote them?
- ❖ What health care systems/structures are available to men who have sex with men or sex workers?
- ❖ What HIV/AIDS policy/program changes are most needed to ensure that the sexual health rights of sex workers and men who have sex with men are protected?
- ❖ What is the level of collaboration between donors and government? Is this seen as successful and what are the areas that need to be improved?
- ❖ What issues should be addressed now in order to best promote sexual health and rights(SHR)?
- ❖ What are the funding gaps related to SHR and HIV/AIDS?

II- RESULTS

A. Policy Landscape

A-1Thailand Political Environment

Country Profile

Thailand lies in central Southeast Asia bordered by Malaysia to the south, China, Laos and Cambodia to the north and east, and Burma to the west. In 2005, Thailand's population reached around 63.5 million and has a population growth rate of 0.7 percent. However, this figure does not include the migrants and refugees from Burma, Cambodia, Laos, and China living in Thailand, whose numbers are estimated at two million or more.³⁰ Almost one-third of the Thai population (31 percent) lives in urban areas. About 72 percent of people who have migrated to Bangkok, migrated for work as opposed to only 9 percent in other regions.³¹ Life expectancy in Thailand is 69.7 years. The overall literacy rate is 92 percent (men 94.9 percent; women 90.5). This relatively high literacy rate may be under threat as public spending on primary and secondary education has dropped considerably over the past three years.

³⁰ Jackie Pollock, Director, Migrant Assistance Programme MAP Foundation, 2006.

³¹ National Statistic Office Migration Study, 2002.

According to the National Statistics Office, approximately 94 percent of the population is Buddhist and five percent is Muslim. There are small animist, Christian, Confucian, Hindu, Jewish, Sikh, and Taoist populations.

The capital city of Thailand is Bangkok. It is home to around nine percent of the population, officially 5.68 million people. However, this number does not encompass people living in the city without being registered—an estimated 3.21 million people. The actual population of Bangkok is closer to 8.89 million. Bangkok's population is predominantly young. Over half the residents are less than 30 years of age.³²

Chiang Mai is the second-largest city in Thailand. It lies some 800 km north of Bangkok, and serves as the capital of Chiang Mai Province. In recent years, Chiang Mai has become an increasingly modern city, with an estimated population of about 250,000. The city is growing rapidly, and its actual population also exceeds the official estimate.

The economic crisis in 1997 left one million people, 3.5 percent of the workforce, unemployed. Government figures for unemployment are 1.9 percent for men and 1.7 percent for women, though this does not take into account high rates of under-employment. Officially, over eight million people (13.1 percent) live below the national poverty line, but once again this does not consider the millions of migrants and refugees living in Thailand, most of whom live well below the poverty line. After the economic crisis in 1997, the quality of life of Thai people worsened and did not recover until 2002. Thailand's rank on the Human Development Index fell from 59th to 66th-76th among 174 countries and fourth among the ten ASEAN member states, after Singapore, Brunei and Malaysia.

Until the economic crisis, public support for healthcare made up seven percent of all government spending. The foreign debts repayments, however, have increased from five percent in 1997 to 13.2 percent in 2004 and spending on health is currently 3.1 percent. In 2004, the budget allocation for AIDS stood at two percent of the health budget, about half of the amount budgeted in 1997.³³ On January 25, 2006, the Department of Disease Control announced that in 2006 the prevention budget will be only 180 million THB, down from 300-400 million THB in 2005.

A-2 HIV Situation in Thailand

The first official report of a Thai person with HIV was in 1984. He was a Thai migrant worker returning from overseas and had had sex with men. Before his status became publicly known Thai people believed they were immune to this “foreign disease.” Such misperceptions continued to circulate even after the first reported case of HIV in Thailand, since the man had contracted HIV outside of Thailand and was reportedly homosexual. However, sex workers in Patpong, Bangkok, who work with foreign tourists, were alarmed at the news. With the support of Empower Foundation they began safer sex campaigns in their

³² Health policy in Thailand 2005 Bureau of policy and Strategy Ministry of Public Health 2005

³³ Center for HIV Information www.hivinsite.org

local community in 1985.³⁴ Meanwhile, as in many countries, denial and reluctance to openly address sexual issues delayed a national government response. Senator and head of the Population Development Agency Mechai Viravaidya, widely known as Mr. Condom, began an aggressive condom distribution and public education campaign in the 1980s. HIV did not appear on the National Health Plan until 1987 and it wasn't until the prime minister agreed to head the National AIDS Committee that the budget to fight the epidemic increased 50-fold, and radio and television stations were required to broadcast AIDS education.³⁵

The HIV rate in Thailand reached epidemic levels—greater than one percent of the general population—in 1990. UNAIDS admits that while behavior change was already underway when the epidemic hit, had active condom promotion efforts begun two or three years earlier, many of the current half-million infections could have been averted.³⁶

Many also believe that had sexual rights been a central goal of the campaign—for example by reducing stigmatization of men who have sex with men and empowering sex workers and women to enforce safer sex practices—even more lives may have been saved.³⁷

The specific targets for HIV management under the National Health Development Plan during the 9th Plan Period (2002-2006) is to show a reduction in HIV infection rates in army conscripts and pregnant women to a rate not exceeding one percent. This is presumably supposed to be a measure of the progress being made in general HIV prevalence. Halfway through the plan in 2003 the rate for conscripts was 0.6 percent and pregnant women 1.1 percent.³⁸

The HIV prevalence rate among the general population aged 15-49 years is currently estimated at 1.5 percent (0.8-2.8 percent range). The rate in itself would be considered low except that the size of the population means that by the year 2004 it was estimated that 1,074,155 persons had been infected with HIV since the beginning of the epidemic. Among these, 572,500 are currently still living with HIV and AIDS.³⁹

Statistics available on the prevalence of HIV in Thailand are prodigious. The numbers vary, however, depending on the source (e.g. National AIDS Division, UNAIDS, Thai NGO Coalition on AIDS). For example the Global Fund to Fight HIV/AIDS reports there are 755,000 people living with HIV/AIDS and that Thailand has an adult prevalence of 2.2 percent. In addition, HIV rates recorded in Chiang Mai are consistently much higher than those in Bangkok.

Most agree that the highest rates of HIV prevalence in Thailand are among intravenous drug users. The second highest prevalence rate is among men who have sex with men, followed by men sex workers, then women sex workers, specifically migrant women with poor working

³⁴ Interview Jackie Pollock February 2006

³⁵ "Thailand's Mr. Condom says AIDS is back" USA Today Associated Press Bangkok July 8, 2005

³⁶ UNAIDS AIDS report 2004-2005

³⁷ Interview with Chantiwipa Apisuk Director Empower Foundation Bangkok, January 2006

³⁸ Office of the National Economic and Social Development Board.

³⁹ Thailand Ministry of Health 2005

conditions. Another group of working men, fishermen, are recorded as having a high prevalence of HIV. Men attending STI clinics have a higher prevalence than women sex workers who have better working conditions than the migrant women sex workers. Pregnant women have a prevalence rate just below the national average.

The reported percentages need to be considered with caution, as some are small random samples of less than 500 people (e.g. a study of 400 men who have sex with men in Bangkok.)⁴⁰ Others are based on predictions rather than current data. For example the last national sentinel surveillance for women sex workers was done in 2001 and, unlike surveys of pregnant women, there is no current measurement of general HIV prevalence in sexually active men. Little separate information on HIV rates for transgender people exists for Thailand but Andrew Hunter from Asia Pacific Network of Sex Workers reports that “It is quite probable that transgenders have higher infection rates than intra-venous drug users in Thailand.”⁴¹

The statistics below show the HIV rate as a percentage of those tested. Figures are for 2005, unless otherwise indicated.

Intravenous drug users:

General/Overall: 33.33%

Bangkok: 53%

Chiang Mai (2002): 9%

Men who have sex with men:

Bangkok: 28%

Men sex workers:

Bangkok: 15-23%

Women sex workers with poor working conditions:

General/Overall: 10.87%

Fishermen:

General/Overall: 6.86%

Men attending STI clinics:

General/Overall: 4%

Bangkok: 5.13%

Chiang Mai (2002): 12.96%

Women sex workers with better working conditions:

General/Overall: 3.67%

Bangkok: 2.6%

Chiang Mai(2002): 8.71%

⁴⁰ Collaboration between MoPH ; U.S. CDC ;Thai Red Cross an Rainbow Sky Association

⁴¹ Personal communication February 2006

Pregnant women:

General/Overall: 1%

Bangkok: 1.18%

Chiang Mai (2002)^{42 43}: 2.73%

There is also a high prevalence in Thailand of STIs other than HIV. This is of great concern, as STIs can increase susceptibility to HIV transmission. In 2002, the STI Division 10 saw a rise in STIs in every province, especially Chiang Rai in the north where infections were two or three times higher than the rates recorded in 2000 and 2001. Closer analysis showed gonorrhea particularly prevalent. The age with the most rapid increase in infections was among 15-19 year olds. Also troubling is the fact that drug-resistant gonorrhea has been increasing since 1999.⁴⁴

Intravenous drug users, most of whom are men, are clearly at great risk of contracting HIV. However, it is not only intravenous drug use that increases HIV and STI risks. In Thailand, there is a high level of alcohol and drug use among young men generally. In northern Thailand, amphetamine-type stimulants are currently the drugs of choice; 41 percent of male university students have reported using these drugs. Men who take these drugs are four times more likely to have lots of sex partners and unprotected vaginal and/or anal sex. Anecdotal reports among men who have sex with men suggest that the drug crystal methamphetamine is increasingly popular as it delays ejaculation and dampens discomfort or pain for the receptive partner. These factors may contribute to sexual practices that increase rectal trauma, which increase the risk of HIV infection.

There is increasing misuse of impotence treatment drugs by customers of women sex workers, especially Western tourists. The drugs are easily bought under the counter in many pharmacies. Women can suffer pain, abrasions and inflammation as a result of prolonged sex.⁴⁵

Apart from drug use, other factors affect the sexual transmission of HIV. Buddhist men are not circumcised. In Africa, studies have shown that having an intact foreskin increases STI and HIV transmission by some 60 percent. Another practice often mentioned concerning Thai and Burmese men is the surgical insertion of pearls or small pieces of jade, glass or pebbles beneath the foreskin to increase sexual pleasure.⁴⁶ Apart from the risk of infection during insertion, the practice also increases irritation, condom breakage, and skin tears for both partners during sex.

Reported condom by men ranges widely from 5 percent to 50 percent depending on who their sexual partner is and their perceived risk of contracting HIV. About 50 percent of men

⁴² Thailand Ministry of Health, et al. HIV Sero-surveillance in Thailand unpublished tables.

⁴³ UNAIDS/WHO epidemiological fact sheets on HIV/AIDS and Sexually Transmitted Infections, 2004 Update Annex HIV surveillance by site.

⁴⁴ Interview with Dr. Kiangsuk Public STI Department Chiang Mai January 2006.

⁴⁵ Discussions with sex workers, Empower, Phuket, December 2006.

⁴⁶ HIV infection and risk factors among Bangkok prisoners, Thailand: Hansa Thaisri, et al.

will use condoms with migrant women sex workers who are seen by them to be high risk; whereas only 15-30 percent use condoms with men who sell sex; 11-38 percent use condoms with casual women partners who are not sex workers (there are higher rates of condom use with casual men partners) and about only six percent of men consistently use condoms with regular partners⁴⁷ There are no figures available for transgender people, but anecdotal evidence shows that willingness to use condoms with transgender partners is very low.⁴⁸

Since the introduction of ARV therapy, non-government campaigning strategies have largely shifted away from prevention to an increased focus on ensuring equitable access to treatment. Many Thai activists, NGOs and people living with HIV/AIDS (PLWHA) groups have been working on HIV issues for 15-20 years. Naturally, there is a certain level of fatigue reached after presenting the same messages to the public over such a prolonged period. Although their messages may need to be changed, it is crucial that such prevention campaigns are revitalized and broadened to include new groups and a new generation of youth activists.

Youth

In a large survey among students in northern Thailand, 43 percent of women and nearly 50 percent men aged 15-21 reported that they had had sexual intercourse, and most of the sex had been unprotected.⁴⁹ Another study among students aged 18-22 in Bangkok, showed that two-thirds of men and one-third of women reported being sexually active but condom use was only 6 percent.⁵⁰ Dr. Kriang Suk, who runs a public clinic for men who have sex with men in Chiang Mai, reports that most men who have sex with men first had same-sex relations at the age of 15-19 years (59 percent). He believes prevention efforts should therefore be aimed at boys 10-14 years to have the best effect. However, many young people under the age of 20 in Thailand have effectively missed the HIV campaigns of the 1990s.

Despite the alarming facts about the increase of HIV among youth, on January 26, 2006, an article in *The Nation* newspaper reports that the public health department is still struggling to overcome society's concerns about the morality of placing condom vending machines on university campuses and in vocational schools. The minister of education, Chaturon Chaisaeng, supports this initiative but will leave the final decision up to the heads of individual institutions. He has also requested that institutions that accept the vending machines also work with the public health department to run sex education and HIV/AIDS education programs. An opportunity to include sexual health rights information and same sex education in these programs may exist. Those institutions that accept condom vending machines may be more likely to accept less traditional approaches to sex education.

Dr. Surasing, the deputy head of the Department of Disease Control in Chiang Mai, would like to concentrate the bulk of HIV prevention services on people between ages 14 and 20 years: "Include young women, young soaw praphet song, young sex workers, young men who have sex with men and young men who have sex with anybody at all. Include everybody." He would like to see long-term strategies and practical projects. "Many short

⁴⁷ Bureau of Epidemiology Division, Thai Department of Disease Control.

⁴⁸ Interview with Surang Janyam SWING Bangkok January 2006.

⁴⁹ Study by van Griensven, Supawitkul et al 2001.

⁵⁰ Thato, Charron-Prochownik et al 2003.

one- or two-year projects have come and gone over the years. Most have left nothing but a shiny published report behind. We have to work on these things consistently. Risks and consequences of sexual behaviors last a lifetime. Surely our projects should last at least five or ten years? Currently, the government does not allow people under the age of 20 into entertainment places but we don't provide any alternatives for our young people. They do not want to be kept at home like a ten-year-old, but where can they go to have fun, practice being adults in a safe place? There is nowhere, so they have to sneak into adult venues and then they are exposed to situations that require them to make adult choices they are not yet mature enough to make. I would like to set up youth centers to fill this gap. We can't blame young people for the results of our neglect."⁵¹

Chantiwipa Apisuk, Director of Empower Foundation, reflecting on sexual health and rights, also talked about the importance of long-term commitments in order to improve the sexual health and rights situation in Thailand: "A child must grow up with their sexual health and their rights protected.... It is not something that short-term interventions can provide, or something you only get when you are an adult."

Not all stakeholders are willing to address young people's sexual health and rights in a similar way. In an interview, Dr. Tassanee, Head of the Northern AIDS Division, supported Prime Minister Thaksin's proposal made during a recent speech at Chiang Mai University. He called for stricter and tougher policing of young people, including rigidly enforcing the youth curfew under his Social Order Policy. He also emphasized the need to police the sex segregated student dormitories within the university.⁵²

UNAIDS warns that as the Thai HIV epidemic matures, the future challenge for all partners in Thailand will be to develop appropriate, innovative responses. HIV in Thailand today is spreading to populations more diverse than were infected ten years ago. Public information and education campaigns, once ubiquitous, are now barely perceptible. In addition, public understanding about individual and personal risks of HIV infection—once seen as a cornerstone of the Thai success—has dwindled.⁵³ Senator Mechai Viravaidya blames a lack of political commitment: "Prime Minister Thaksin, [who is] head of the National AIDS Committee, has never attended a meeting and has not spoken about HIV to the cabinet since the year 2001."⁵⁴ (report was written during the political upheaval and finished before Prime Minister Thaksin resigned)

Prevention efforts and interventions have not addressed sexual rights and they have resulted in many men attempting to avoid personal risk by changing who they have unprotected sex with, rather than adopting safer sexual practices. Officially, 19,000 new infections were recorded in 2005. Most of the new infections are among young people and women who are not sex workers. The number of new infections is no longer falling as rapidly as it did in the last decade, said a study by the World Health Organization and Public Health Ministry in

⁵¹ Interview with Dr. Surasing Chiang Mai, January 2006

⁵² Interview Dr. Tassanee, Chiang Mai, January 2006

⁵³ UNAIDS 2004

⁵⁴ "Thailand's Mr. Condom says AIDS is back" USA Today Associated Press July 8, 2005

August 2005. Meanwhile, public health officials express concern that, “Thailand’s success in the past may become Thailand’s failure in the near future.”⁵⁵

A-3 Universal Health Care Scheme (30 Baht Scheme) and AIDS Treatment and Care

The Universal Health Care Scheme was implemented in October 2001. It offers “treatment of all diseases for 30 baht” and is commonly called the 30 baht scheme. Currently, 94 percent of the population has a 30 baht health care card, entitling them to treatment.

There are some problems with the level of public confidence in the 30 Baht scheme. Around 40 percent of people hold a belief that the quality of care and drugs available under the scheme is poor—though there is no evidence this is true. However, hospitals claim they have not been given adequate budgets to cope with the rising costs they bear under the scheme. Under the ongoing National Health Reform, Thai law requires that not less than 35 percent of the national health budget is to be allocated to local authorities by the year 2006. However, at the end of 2005 only 23.5 percent had been allocated. This gap results in agencies, such as public hospitals, failing to take responsibility for the roles assigned to them. Hospitals and health departments are also struggling with insufficient and /or inappropriate staffing.⁵⁶ In addition, access to care is not truly universal. Due to their lack of full citizenship or inadequate documentation, many ethnic minorities in Thailand, refugees, and migrant workers are not covered by the Universal Health Care scheme.⁵⁷

In the late 1990's, ARV therapy in Thailand cost 20,000-30,000 baht a month. At that time, the minimum wage was 3,300 baht a month, and ARVs were beyond the means of most people.⁵⁸ In 2001, Thailand’s Government Pharmaceutical Organization (GPO) began producing some of its own ARV drugs. The GPO, however, is only able to produce a very basic range of ARVs due to drug patent regulations. The government claims AVR therapy is now accessible by 60 percent of people living with HIV and AIDS requiring treatment. But ARV drugs produced by GPO, though considerably cheaper than when first introduced in Thailand, still cost around a third of the monthly minimum wage (1,200 baht). Further, ARV therapy is not yet available under the 30 Baht health scheme despite promises made by Prime Minister Thaksin at the XIV International AIDS Conference in Bangkok in July 2004. Recently the prime minister repeated his promise saying that ARVs will be available under the scheme after April 2006.⁵⁹

Currently, ARV drugs are only available to Thai citizens and registered migrant workers who have a CD4 count of below 200, or who are very unwell with CD4 of 250. Generally, most people with a CD4 count of 200 will have opportunistic infections. Many will have more than one infection, . Doctors have to struggle to strengthen the patients’ health to a point

⁵⁵ Personal communication Dept of Disease Control January,2006

⁵⁶ Report on Survey of Public Opinions about the Universal Coverage of Healthcare Scheme (30-baht Health care). National Statistical Office Eng.

⁵⁷ Interview with Jackie Pollock Director Migrant Assistance Program Chiang Mai January 2006

⁵⁸ Based on historical data comparing the minimum wage in Thailand during the 1990s to the average cost of AVR therapy.

⁵⁹ Personal Communication : Thai NGO NGO Coalition on AIDS December 2005

where they can tolerate the ARVs and many do not survive long enough to begin treatment. Further complicating treatment is that, due to drug patent laws, the GPO does not manufacture all combinations of ARV drugs. This means that the range of available drugs does not allow doctors enough scope to adjust treatment. These factors tend to lead to a public perception that ARV treatment is not very successful and many delay beginning treatment until they have no other choice. The therapy itself is complex and very few doctors and health services are willing to manage people on ARVs, as ARV therapy requires a high degree of communication and cooperation between doctor and patient. This doctor-patient partnership is antithetical to the hierarchical culture of Thai health service delivery which dictates that the patient must follow the doctor's orders without questioning. In Thailand, 900 government hospitals are said to have the capacity to administer ARVs. In addition, the perceived difficulties and high cost involved in administering ARVs, plus shrinking budgets have led many hospitals to decline ARV programs. ARV treatment is even more limited by the fact that no provision has been made for those living in remote areas, especially ethnic groups in hill tribe villages.⁶⁰

Access to ARV treatment does not depend on a person's job or sexual orientation. Rather, access to care is determined by financial resources, family support, geographical location, hospital budgets and the doctor's expertise in ARV therapy.⁶¹ Sex workers and men who have sex with men must jump the same hurdles in accessing treatment as do the rest of the population. However, transgender people, whose sexual identity is more often visible, generally face discrimination when using any health service, including HIV treatment.⁶²

Despite all these challenges, ARV therapy is having a very positive effect in helping control the epidemic in Thailand. The public health ministry reports that some 1,478 people died from the disease between January and November 2005, compared to 6,593 for the same period in 2004. Senior health official Thawat Suntrajarn attributes the fall to wider access to AVR drugs. Many people working on issues around HIV in Thailand, however, are concerned that these positive developments could be negated by the free trade agreement currently being negotiated between Thailand and the US, as the US will likely insist on tighter patent and copyright regulations.⁶³

There is much to be done to improve AIDS treatment in Thailand. With the exception of providing ARV treatment to those most in need, the Thai government has essentially abdicated responsibility for AIDS care to families and local communities. Not only does this place enormous strain on many families but it also has meant there is no public provision for care of people with AIDS who have no family or community. Hospitals will only admit those people who need active treatment. There is no government-funded supportive or palliative care available. Even some non-government organizations, such as Hotline, which were

⁶⁰ Interview with Thanta Loavilawanyakul Health Coordinator Empower, January 2006

⁶¹ Interviews with sex workers and men who have sex with men Bangkok and Chiang Mai, January-February 2006

⁶² Interviews with SWING Bangkok January 2006

⁶³ Interview with New Life Friends PLWHA group Chiang Mai, February, 2006

originally funded to provide that care in the 1990s, today do not accept people with HIV, let alone those with AIDS.⁶⁴

Stigma and Fear

In 1991, to prevent discrimination against people with HIV/AIDS in service, employment and training areas, the Ministry of Public Health removed HIV infection from the list of notifiable diseases. This means that there can be no mandatory HIV Testing or disclosure of HIV status in Thailand. The right to be free of discrimination based on one's health status was further guaranteed under the Thai Constitution 1997. These measures had a significant impact in minimizing stigma in the 1990s. Unrelenting public education campaigns and the fact that so many communities and families had personal experience with HIV/AIDS also helped to dispel much of the fear of people with HIV/AIDS. During the height of the HIV epidemic, 1996-1997, stigma and fear of people with AIDS was very low, especially in the north. However, since that time the public campaigns have disappeared and the stigma associated with the virus has returned. People with HIV report that they are often made to feel that their HIV status is their own fault and somehow deserved for having sex with men, injecting drugs, being a transgender person, or selling sex.⁶⁵ People with AIDS report being evicted from rented accommodation and refused rides in taxis. They fear going out in public. UNAIDS agrees that despite some successes, stigma and discrimination against persons living with HIV and AIDS is still prevalent in many communities.

A-4 Current Rights Issues in Thailand

Thailand changed its political system from an absolute monarchy to a constitutional monarchy in 1932 and there have been 16 constitutions enacted, 11 coup d'états as well as nine rebellions, the last attempted coup was in 1992. Since then, Thailand has lived in what most describe as a fragile democracy. While this report was being compiled, Thailand was governed by the Thai Rak Thai Party, elected in 2001 and led by Prime Minister Thaksin Shinawatra. Under his leadership, Thailand saw a sharp increase human rights violations and antidemocratic changes to its constitution that have raised concerns within Thailand and internationally.

After months of increasing pressure by former political allies, opposition groups, and demonstrations by the general public on the February 26, 2006 Prime Minister Thaksin dissolved the parliament and called a snap election, originally scheduled for April 2, 2006. Currently, Thai Rak Thai party is a caretaker government and the political situation in Thailand is very uncertain.

Below are examples of recent developments in Thailand that have raised concerns in the human rights community:

⁶⁴ Interview with Thanta Laovilawanyakul Health Program Coordinator Empower February 2006

⁶⁵ Interview with Khun Samran Violet House, Chiang Mai February 2006

- ❖ At the National Human Rights Commission workshop on August 6, 2005, Prime Minister Thaksin told NGOs not to “sink the boat” by reporting human rights abuses in Thailand to the international community.
- ❖ In the first few months of 2003 some 3,000 drug users or their family members were killed in Thailand. Many were extra-judicial killings by Thai police. The killings followed the announcement of Prime Minister Thaksin’s “War on Drugs.”⁶⁶
- ❖ In the past year, over 1,000 people have died in violence in the southern provinces of Thailand. Though superficially, the violence seems to stem from Islamic extremists, many blame the police and military for instigating the violence and the government for a failure to end it. Nearly 200 people, mostly young Muslims, died in custody while being transported to prison after being arrested at a protest against police violence. An initial attempt was made to cover up the incident. To date no official acceptance of responsibility or offer of compensation has been made. A special emergency decree has been enacted that empowers the government to circumvent usual practices and law.
- ❖ There is very little government tolerance for activism and advocacy if it conflicts with official policy. For example, the Thai Network of People Living With AIDS had its offices raided in the province of Si Sa Ket in January 2006. Chairperson Kamol Uppakaew believes the action was due to the group’s participation in recent demonstrations against the Thai–US foreign trade agreements.
- ❖ Eighteen human rights defenders, mostly those advocating around land ownership issues, are missing or have been found dead since 2003.
- ❖ The current government’s attitudes towards human rights of migrant workers is highlighted in this instruction given at a Cabinet meeting chaired by the prime minister in December 2005: “There shall be special measures to handle illegal immigrants. Special strategies shall be put into place. Human rights principles shall not be overemphasized.”
- ❖ The present government is very sensitive to criticism. Until a few years ago, Thailand enjoyed a totally free press but this was downgraded to partially free in 2003 after perceived government interference. In January 2006, a major mainstream media website, www.manageronline.com, was closed after government claims it was causing public unrest and the satellite it used had no license to transmit media. Since October 2005, community radio programs, guaranteed in the 1997 constitution, have been closed down, further limiting public access to information and free expression. Until December 2005, six court cases were pending in which the prime minister was suing media for libel and slander. He has withdrawn legal action seemingly in consideration of recent comments made by the

⁶⁶ Human Rights Watch, Not Enough Graves: Thailand’s War on Drugs, HIV/AIDS, and Violations of Human Rights, Vol. 16, No. 8(C), July 2004

King of Thailand. Many people giving information to this report asked not to have anything critical of the government policy or activities directly attributed to them.

- ❖ Ladda Tangsuphachai, Director of Monitoring for the Ministry of Culture, has said that although “the Constitution ensures freedom of expression there must be limits to this expression” Recently a book, *Bangkok Inside Out*, has been removed from the shelves and is under investigation because it explicitly talks about “gay shows and bar girls in Patpong” among other subjects such as gambling, tourist scams and touts. Ms Ladda claims it is “ruining the image of Thailand.”
- ❖ The government has implemented several Social Order Policies that include such restrictions as curfews for youth and 12:00 a.m. closing of entertainment places.
- ❖ New laws and amendments of existing laws have been passed without due public consultation as required by the constitution. In March 2003, while discussions with stakeholders were still ongoing, overnight the Entertainment Place Law underwent amendments in a closed-door session of parliament.

Ongoing social stigma and discrimination towards sex workers, past neglect and indifference to the situation of transgender people and men who have sex with men, USAID funding restrictions, and Thai government’s inherent sensitivity to preserving a positive image of Thailand, make it both timely and challenging to support these marginalized groups in their struggle to attain good sexual health and exercise their sexual rights.

A-5 General Sexual Health and Rights Situation

Although the wording of the Constitution prescribes equality and freedom from discrimination, existing social structures and the supporting legal framework do not uphold or promote equality or freedom from discrimination regarding sexual rights.

There strong social pressure on all Thai men and women to get married and have children, regardless of individual goals or sexual identities. This pressure is internalized and enshrined in the Thai language, which only allows someone to ask the question ‘Are you married *yet*?’ and which must be answered either *yes* or *not yet*. The older one is the less acceptable negative answers become, especially for women. Meanwhile, same-sex relationships are not legally recognized in Thailand and not generally given equal respect to heterosexual relationships by society.

Marriage in Thailand is not necessarily registered. In 2001, just over 324,000 couples applied for marriage licenses. The divorce rate in the same year was 23.4 percent.⁶⁷ A marriage ceremony, most commonly Buddhist, attended by family and community members is generally seen as sufficient social legitimacy and recognition of the marriage. This relationship has no legal recognition, however. Child custody, support and property settlements are left to the individuals involved and their families to reach an agreement. Men

⁶⁷ Health policy in Thailand 2005 Bureau of policy and Strategy Ministry of Public Health 2005

are under no legal obligation to share assets or provide for their children once the relationship with the mother has broken down, unless there has been a registered marriage and subsequent divorce or he is named as the father on the birth certificate. Even then enforcement of financial responsibility is rare. There is also very little social pressure on men to be economically responsible for their children if they are no longer ‘married.’

Divorce must be mutually consensual unless sufficient grounds for divorce (e.g. violence or adultery) can be proven. In a case of adultery, the man must provide evidence that the woman was intimately involved with a man just once, whereas the woman must prove that her husband supports and honors woman other than his wife.⁶⁸

A man who buys sex from an adult woman (i.e. a woman over 18 years old) does not face legal repercussions or stigma, though the woman sex worker does. (This observation is not meant in any way to encourage the criminalizing or stigmatization of customers, but rather serves to highlight the discrepancies in social and legal perceptions of sexual behavior.)

Sexually active young women are heavily socially sanctioned whereas being sexually active with a woman is seen as “natural” for young men. After a woman’s first sexual experience she’s referred to colloquially as “spoiled.” These sanctions do not, however, mean young women are not sexually active. Rather, they make an effort to keep secret their sexual activity. This interferes with their access to information, support, birth control, and condoms.

Abortion is illegal in Thailand except in the case of medical necessity or proven rape. Emergency contraceptives are available over-the-counter though knowledge about their existence and use remains quite low among women. A number of herbal remedies claiming to induce abortion are widely known and used throughout Thailand. Although there is no scientific information about their efficacy, they are generally believed to be not very effective. When necessary, women also resort to other more dangerous methods including seeking illegal abortions that are often performed under less than ideal conditions or even by means of manual manipulation of the womb to eject the fetus. The availability of emergency contraception and lack of legal interference in their use offers a good opportunity to provide emergency contraception information and awareness generally to women. Such initiatives could prevent many complications of dangerous abortions.

Women are seen as responsible for contraception and since the advent of HIV, are also responsible for disease protection. Yet many methods including the male condom are not within their power to control.

Because unmarried women are not accepted as being sexually active they are effectively prohibited from having access to any contraception managed by a doctor. Doctors routinely require that married women must obtain their husband’s written consent for tubal ligation. Single men can choose to have a vasectomy, as can a married man without consent or formal consultation with his wife.

⁶⁸ Summary Record of the dialogue between the Human Rights Committee and the Official Delegation Of Thailand Geneva, July 19th– 20, 2005.

The laws on rape also serve to subjugate women in Thai society. Section 276 of Thailand's Penal Code states that a charge of rape can only be made against "Whoever has sexual intercourse with a woman *who is not his wife* [italics added], against her will, by threatening her by any means whatever, by carrying out any act of violence, or by taking advantage of the fact that the woman is unable to resist." This allows rape within marriage, even after separation. At the 2006 meeting of the UN General Assembly Committee on Elimination of Discrimination against Women, one of the Thai delegates reported that a proposal to delete the words "who is not his wife" from the definition of rape had encountered strong objections from the Council of State and efforts are still underway to reach a compromise on the matter.⁶⁹ As troubling, section 1445 of the Civil and Commercial Code allows a man to claim compensation from any man who has sex with or rapes his wife; women may not apply for such compensation for themselves.

Rape under the law is still limited by definition to the insertion of the penis into the vagina, which excludes the rape of boys and men. Transgender people are also excluded regardless of their anatomy, as a woman is defined as someone "who can deliver a baby." This definition is based on a Supreme Court ruling in which the Royal Thai Academy dictionary 1950 edition was used to uphold a decision to deny the right to change gender on identity documents. Anal rape, rape with objects, forced oral sex, and other attacks are not considered rape or even sexual assault, but rather physical assault. The penalty for a person convicted of rape as opposed to physical assault is considerable. While rape carries a prison term of between four and 20 years and/or a fine of 8,000 to 40,000 THB, physical assault incurs a maximum prison term of two years and/or a maximum fine of 4,000 THB. Physical assault itself is defined as an attack that "draws blood," limiting the situations in which the charge can be used. A proposal to broaden the definition of rape was put to parliament in 1998 but has still not been promulgated.

Women's health is increasingly intertwined with the culture of promoting a uniformity of female beauty in Thailand. Commercial products and programs to achieve weight loss, white skin, and straight hair, and cosmetic surgery for eyelid reconstruction, increased breast size, or creating a Caucasian nose, are prolific.⁷⁰

Sexual health education in Thai schools has been limited to encouraging good 'character and development.' Generally, the courses address, living together in family and society, self-responsibility, social responsibility, social norms and culture, and personal health. There are more progressive programs in secondary schools. Officially, according to the National Health Plan, the subjects include "dating, opposite sex selection, social and communication skills, contraceptive choice, marriage, family life, sexual disorders, and so on. In addition, the focus is on how students can protect themselves from STIs. The provision of HIV information and HIV awareness is taught through writing and art competitions."⁷¹

But there is still a long way to go to improve sex education in Thailand. The former chief of UNESCO's Bangkok HIV/AIDS Coordination and School Health Unit, Jan Wijngaaden,

⁶⁹ Interview Pranom Somwong Thai Lawyers Council Chiang Mai February 2006

⁷⁰ Interview Chantiwipa Apisuk Empower Foundation Bangkok January 2006

⁷¹ National Health Plan 2005

said in August 2005: “Although a lot has been achieved in the past years, so much more needs to be done. Ministries of Education, teachers and parents are still not taking HIV/AIDS seriously enough. Collaboration with other agencies at the country level remains challenging in many places.” Evaluation of these school programs is just beginning. Teacher training in sexual health and rights is an area that lacks resources and commitment; and many teachers find it impossible to manage sexual health and rights education. It would be timely to support the involvement of youth, especially those from sexual minority groups, in the development and implementation of models of broad-based sex education for use by parents and in schools.

Opportunities for involvement in sexual health and rights training may exist via several prominent institutions. The Thai Medical Society for the Study of Sexually Transmitted Diseases (STD) conducts the International STI/AIDS Diploma annually. The Consortium of Thai Training Institutes for STDs and AIDS provides a structure for collaboration in training. Since November 2000, the Asian College of Sexual Health has run an international refresher course on sexual health annually. Recently, various academic bodies have committed to advanced cooperation in international training: non-degree courses (certificate of attendance, certificate of proficiency) of sexual health; and degree courses (diploma and master) of sexual health and human sexuality. Sexual minorities and sex workers could be invited to inform the courses. In addition, facilitating their participation as students in such courses would enhance the capacity of the NGOs and the community-based organizations they work for.

A-6 Sexual Health and Rights Situation of Transgender People, Soaw Praphet Song (Another kind of woman)

“Soaw praphet song” is term a Thai transgender people have created to refer to themselves to replace the historically negative term “katoey”. Katoey is a negative term for male to female transgender people. Participants in this report recommended “soaw praphet song” and it will be used from this point on, throughout the document.⁷² Soaw praphet song are born as biological males but identify as female, usually at a very young age. They are visible in Thai society, but are not yet accepted by the mainstream. A wide range of identities, appearances, and sexual behaviors are covered by the term soaw praphet song and so it is difficult to translate it into English. A soaw praphet song may dress as a man and simply have feminine mannerisms or she may have had complete sex reassignment. In all cases, soaw praphet song do not identify as men and therefore, firmly reject their partners or themselves being labeled or considered as men who have sex with men.⁷³

Religion

A rite for all Buddhist men in Thailand is to be ordained as a Buddhist monk. Most men enter the order for about one month, though the minimum period of seven days is also practiced. Being ordained not only ensures a man’s own spiritual progression but aids his mother’s

⁷² Interview with Soaw Praphet Song leaders SWING, Bangkok January 2006

⁷³ Andre Hunter reporting on APNSW Regional Transgender Health and Human Rights workshop Pattaya 2005

Andrew Hunter Asia Pacific Network of Sex Workers Bangkok January 2006

spiritual advancement as well. It is significant that, according to common interpretation of Theravada Buddhism, neither women nor soaw praphet song are deemed capable of attaining enlightenment in their current lifetimes. The possibility of reaching Nirvana is open only to men, by virtue of their gender. Like women, officially soaw praphet song are unable to become ordained as Buddhist monks; unlike women they are unlikely to have sons who will fulfill this spiritual role for them. Though Buddhism doesn't directly condemn transgender people, it is widely held belief in mainstream society that people are born as soaw praphet song in order to pay for the bad karma of a past life. That is, a man who commits adultery is thought to be reborn as a soaw praphet song, and worse behavior results in one being reborn a woman.⁷⁴

Self-imposed, family, and social pressure is so strong that many soaw praphet song who are not visibly female decide to temporarily deny their soaw praphet song identity in order to be ordained.⁷⁵ Addressing discrimination within Buddhism is a sensitive issue, while laws prohibiting speech are likely to insult Buddhism remain in place. The 1962 Sangha Act specifically prohibits the defamation or insult of Buddhism and the Buddhist clergy though what constitutes an "insult" remains largely subjective.

Law

There are no legal restrictions against soaw praphet song, but they are still considered men under the Thai law, even if they have had full sex re-assignment surgery. Although the first reported sex change operation in Thailand occurred in 1972, more than 30 years later it still remains impossible for people to change their gender on documents such as passports, ID cards, registration records, and national health care cards. The Interior Ministry is responsible for enforcement of laws pertaining to identity. For 30 years the ministry has consistently stated that, "male or female characteristics have to comply with nature and the physical facts at birth. They are not something that can be acquired later as the result of an operation." Additionally, the Supreme Court ruling against the application of a soaw praphet song named Chumpol Silapaprajamphong to change her documents says, "an individual's sex is determined by genetic and chromosomal ingredients alone." The Court argued as well that according to the dictionary (specifically the 1950 edition published by the Thai Royal Academy), a woman is defined as "a person who can deliver a baby."⁷⁶ This ruling has gone unchallenged. Soaw praphet song, regardless of how they identify, travel as men, are hospitalized as men, jailed as men, and drafted into the military as men.

Military service is compulsory, and at age 21 every man must report at a specific date for conscription into the armed forces. At this time, an army doctor examines the conscripts. Those who are deemed fit take part in a lottery to determine if they will actually serve for the two-year term. One soaw praphet song described this process in an interview: "Soaw praphet song that are accepted into the military are permitted to modify our uniforms and wear simple makeup. Generally we are assigned non-combat duties, e.g. personal attendants to officers."⁷⁷

⁷⁴ In Legal Limbo: Thailand, Transgendered Men, and the Law By Andrew Matzner

⁷⁵ Personal communication Soaw Praphet Song sex workers, Chiang Mai January 2006

⁷⁶ In Legal Limbo: Thailand, Transgendered Men, and the Law By Andrew Matzner

⁷⁷ Personal communication ; soaw praphet song Chiang Mai February 2006

Soaw praphet song with breasts or who have had reassignment surgery are automatically disqualified from taking part in the lottery. According to a Thai army spokesman, Col. Thanadol Phaochinda, they suffer from “a disease that causes a serious and permanent mental problem.”⁷⁸ After discharge she is issued an official notice stating the reason for her inability to serve in the military is due to mental illness. This has long-term consequences. The document becomes part of her permanent record, and she is required to produce it when applying for employment in certain work sectors, such as government or business. Soaw praphet song organizations, NGOs, and activists appealed to the National Human Rights Commission to investigate and, in August 2005, on the Commission’s recommendation, the decision has been taken that discharge from military service for soaw praphet song will no longer be on psychological grounds. This new ruling is expected to come into force in 2007.⁷⁹

Media

Thai tabloids publish sensational stories which reinforce a stereotype that soaw praphet song are violent with uncontrollable passions. Other media portray them as comic figures or people to be pitied.⁸⁰ The annual “Miss Katoey” beauty contests also cement beliefs about the stereotypical behaviors and interests of soaw praphet song.⁸¹ Some high profile soaw praphet song have excelled in various professional fields, such as kick boxing, acting, fashion, and business. Their success and diversity of skills and pursuits goes some way to counteracting the stereotypes but for the most part they are seen as novelties. Promoting and supporting the production of positive media by soaw praphet song could work to counteract these images.

Education and Family

In 1996, the Department of Education moved to ban soaw praphet song from becoming teachers. Protests led by a Thai Lesbian network, Anjuree, eventually forced them to withdraw the ban. However, government, academic, and public dialogue around that time revealed the levels of antagonism and misconceptions held about soaw praphet song. Even though most soaw praphet song identify as such by the age of 8-9 years, they are generally forced to adhere to a male identity and cross dress as boys/men throughout their schooling.⁸² Families vary in their level of acceptance, and their response will range from tolerance and concern about the discrimination their child will suffer, to disappointment and sadness, rejection and denial, anger, or violence. Often soaw praphet song will encounter all these reactions within their family at some time.⁸³ Fathers were found to be less accepting in a recent study of 80 soaw praphet song, only 38 percent of who said their father’s currently accepted them.⁸⁴ There are few support services for soaw praphet song or their families.

⁷⁸ Bangkok Post 28th May, 1999

⁷⁹ Interview with Surang Janyam SWING Bangkok January 2006

⁸⁰ Interview Mplus Chiang Mai February 2006

⁸¹ Interview Bangkok Rainbow, Bangkok February 2006

⁸² Workshop participants Mplus Chiang Mai 2006

⁸³ Interviews Mplus Chiang Mai, February 2006

⁸⁴ Katoey in Thailand: HIV/AIDS and Life Opportunities Carol Jenkins, Prempreeda Pramoj na Ayutthaya, and Andrew Hunter February 2006

Safer Sex

Soaw praphet song are not a homogenous group. Like men and women, they have a variety of sexual preferences, and drug taking and health care behaviors. Similar to women, most soaw praphet song prefer biological men who do not self-identify as homosexual as sexual partners. As yet, there is no information available on the sexual health needs of men who have soaw praphet song as regular sexual or life partners. It is also uncertain to service providers what HIV messages and services these men can access. Some soaw praphet song will have self-identified gay partners or other soaw praphet song. Like with men and women, it is important in programming to identify which priority issues, if any, are common to all soaw praphet song.

No government or national prevention campaigns have been designed or implemented for soaw praphet song. They must extract useful information for themselves from safer sex messages directed at women and men. Many HIV/AIDS myths and misunderstandings prosper in this information vacuum. Buying male condoms is at best embarrassing and often initiates mockery from retailers and other customers. Condoms and lubricant need to be made available at places where soaw praphet song socialize.⁸⁵

Self-Health Care

There are no health services designed to target the needs of soaw praphet song. The attitude of many government staff and health providers toward soaw praphet song reflects widespread negative stereotypes, and, according to a recent study, most STI clinics are not adequately equipped to examine and treat soaw praphet song.⁸⁶ Creating specific health services for soaw praphet song identifying as transgender or at least providing gender integrated health services is far more appropriate than trying to reach this population by services targeting men who have sex with men.⁸⁷ Sisters, an organization of soaw praphet song in Pattaya, has plans to start a clinic, which would be the first of its kind and an important initiative to support—not just as a service delivery organization but perhaps as a future model for government health agencies offering sexual health services.

Strengthening the capacity of soaw praphet song community leaders to disseminate sexual health and HIV information, and providing training and information to health providers is crucial in addressing the sexual health needs of soaw praphet song and reducing their rate of HIV infection.

Many soaw praphet songs feel the need to use hormone replacement therapy (HRT) and eventually to have sex reassignment surgery. HRT injections are available over-the-counter in Thailand for 3,000 THB a month, and in an absence of available services most soaw praphet song begin therapy without any medical supervision. In stark contrast to the lack of basic health services for soaw praphet song, sex reassignment surgery is world class in Thailand, and includes extensive psychological preparation and support. This is provided at

⁸⁵ Interview with Surang Janyam, SWING, Bangkok 2006

⁸⁶ Katoey in Thailand: HIV/AIDS and Life Opportunities Carol Jenkins, Prempreeda Pramoj na Ayutthaya, and Andrew Hunter February 2006

⁸⁷ Andrew Hunter APNSW Regional Transgender Health and Human Rights workshop Pattaya 2005

private hospitals and clinics. Neither HRT or sex reassignment surgery is available under the 30 Baht Health Care scheme, though some soaw praphet song see it is vital to their well-being. The cost for breast implants is 60,000-80,000 THB (15-18 months' salary at the minimum wage). Total sex reassignment surgery ranges from 120,000-150,000 THB (about two to four years' salary on the minimum wage).⁸⁸ This price may go up further as Thailand plans to begin promoting medical tourism. The numbers of soaw praphet song undergoing sex reassignments are difficult to find, but Dr. Preecha Tiewtranon, Bangkok's preeminent sex-reassignment surgeon who performed his first sex reassignment operation in 1975, performs four to five sex reassignment procedures a week.⁸⁹

Employment

Soaw praphet songs are severely limited in choice of employment by discriminatory hiring practices that are commonplace in Thailand. People are regularly refused employment on the basis of age, gender, appearance, and ethnicity.⁹⁰ Although unconstitutional in theory, no one has yet challenged such practices in court, and it would seem unlikely that a group as marginalized as soaw praphet song would be the first to successfully do so. Regardless of individual education, skills, expertise and aspirations, most soaw praphet song have to find work in service professions including, but not limited to, sex work. Those who do find work outside the sex industry will be enrolled in the Thai Social Security Scheme. It covers workers against illness, accident, maternity/paternity leave, unemployment, retirement, retrenchment, and disability, and death (reimbursing family members). Contributions are compulsory and calculated on the monthly wage of the worker. Under the Social Security Act, employers pay one-third, the insured person one-third and the government pays the final third of the contribution. Most entertainment place owners are not recognized as legitimate employers and therefore do not cover their workers.

The social misconceptions about soaw praphet song mean that many are targeted for police harassment and abuse faced by sex workers, even if they are not in the sex industry.⁹¹

Supporting soaw praphet song in their efforts to have their gender officially recognized is an urgent priority. It is a timely issue to move on as previous work around military discharge has informed the current National Human Rights Commission about the issues and soaw praphet song have themselves become better organized and determined. Dr. Preecha Tiewtranon has noticed a change among his ex-patients. "More of them are joining informal support groups. Less are willing to quietly endure their dissatisfaction with their continued classification as men."⁹² It may be possible to involve eminent Thai persons in sexual health advocacy by supporting soaw praphet song organizations that can initiate dialogue with the lecturers at Chulalongkorn University and with sex reassignment surgeons.

⁸⁸ workshop participants, SWING Bangkok, 2006

⁸⁹ 18th symposium of the Harry Benjamin International Gender Dysphoria Association 2003

⁹⁰ Interview with Mplus Chiang Mai February 2006

⁹¹ Interview with Surang Janyam, SWING Bangkok January 2006

⁹² In Legal Limbo: Thailand, Transgendered Men, and the Law By Andrew Matzner

A-7 Sexual Health and Rights Situation of Men who have Sex with Men

Men's Role

Thai men are expected to marry and have children. There is also pressure for them to conform to the stereotype of a “real man,” one who is physically strong, hard working, emotionally guarded, and sexually active with women. While there are of course individual exceptions, being gay, openly homosexual, or bisexual in Thailand is socially unacceptable, considered shameful for the family and still believed by many to be a sexual perversion.⁹³

Social norms about masculinity and gender may heighten men’s vulnerability to HIV if they engage in risky behaviors and are reluctant to access information or services due to fear of stigma. Men, like women, are influenced by traditional gender norms. These need to be challenged if both men and women are to be protected from HIV infection and if men are to be encouraged to play a more responsible role in HIV prevention. Special attention needs to be paid to boys in terms of their socialization towards gender norms.⁹⁴

Thai Identity

Unlike the West, in Thailand, one’s identity is not fixed or necessarily defined by one’s behavior or actions. Having same-sex relations is seen as a type of behavior that does not necessarily define one’s identity. There is thus much identity confusion for men who have sex with men.⁹⁵ There is no indigenous Thai noun for homosexual. Thai men who have sex with men are exploring different language to express their sexuality. “Men who have sex with men” is commonly translated into Thai as “men who love men,” a term that excludes the concept of casual sex. Many men, especially men from rural areas, do not know about or are unable to identify with the Western concept of being gay.⁹⁶ One young man asked in an interview: “Do you think if I keep having sex with men I will become gay?”⁹⁷ His question also reflects a belief that homosexuality itself is contagious and addictive.

Interviews conducted with organizations working with men who have sex with men revealed widespread confusion over the use of the English acronym MSM. Many who use this term in Thailand are referring exclusively to men sex workers or soaw praphet song. These organizations may benefit from further collaboration to explore issues of identity, and commonalities and differences, if any, between the sexual health and rights issues for men sex workers the larger population of men who have sex with men. At present, information regarding the non-sex worker men who have sex with men is extremely difficult to extract.

Given the barriers in Thailand to identifying as homosexual it is not surprising that the large majority of men who have sex with men do not openly identify as such.⁹⁸ Nevertheless, there are two groups of men who are open about being men who have sex with men. The first are men sex workers. The second are relatively affluent, mostly professional men, under 40 years

⁹³ Interview with Khun Samran Violet House Chaing Mai January 2006

⁹⁴ UNAIDS/WHO AIDS Epidemic Update: December 2005

⁹⁵ Interview Mplus Chiang Mai February 2006

⁹⁶ Interview with Khun Samran Violet house Chiang Mai January 2006

⁹⁷ Interview with group of men sex who have sex with men Chiang Mai, February 2006

⁹⁸ Interview with Khun Samran Violet House Chaing Mai January 2006

old. This second group is far better situated than men sex workers to promote issues of sexual rights. Their financial and professional status means they are awarded some respect in Thai society.⁹⁹ While a few are actively working in lesbian, gay, transgender, and bisexual (LGTB) organizations many do not yet participate in advocacy for change. Consciousness-raising and sexual health rights education among this group may be a good way to create and support more leaders and activists willing and able to advocate for the sexual health and rights of all men who have sex with men.

The general discrimination and stigmatization of men who have sex with men means under-reporting of same-sex relations is very likely. In a variety of surveys in Thailand, between three percent and 17 percent of men reported recent sex with men, and in a survey of 15-year-old boys 2.2 percent reported that they had had sex with another male.¹⁰⁰

Most men who have sex with men also have sex with women. In central Thailand, almost half of the men who reported sex with other men had also had casual women sexual partners and a third said they had bought sex from women sex workers.¹⁰¹ In addition the overwhelming social, community, family and internal pressure to marry and have children ensures many men who have sex with men also have sex with their wives.¹⁰² They are in an excellent position to become safer sex advocates in various settings if they are able to access appropriate information and are supported to use condoms and lubricant.

In addition to this diversity of sexual relationships, men who have sex with men are found more likely to use drugs, so drug harm reduction information and skills are also necessary to help them protect themselves from HIV and other STIs. Such prevention efforts must take into account their high rates of substance use and multiple partner types.¹⁰³

Socio Cultural Environment: Social Attitudes Towards Men who have Sex with Men

Although the rights of all people are protected under the Thai Constitution of 1997, in practical application men who have sex with men cannot yet exercise their right to equality and freedom from discrimination in Thai society.

Homosexuality in Thailand had been classified a mental disorder until 2002, when the government overturned this official label to comply with the World Health Organization's 1993 decision to remove homosexuality from the list of mental disorders. Prawate Tantipiwatanasakul, an official with the department of mental health, admitted that his agency lagged more than 30 years behind academic consensus.¹⁰⁴ However, declassifying homosexuality as a mental disorder has done little to change the culture of homophobia in health services or the rest of society.

⁹⁹ Interview Surang Janyam SWING Bangkok February 2006

¹⁰⁰ Asian Institute Mahidol Uni & Bangkok Metropolitan Administration AIDS Control Division 2003

¹⁰¹ High HIV, hepatitis C and sexual risks among drug-using men who have sex with men in northern Thailand. AIDS. 19(14):1535-1540, September 23, 2005. *Beyrer, Chris et al*

¹⁰² Interview Khun Tee SWING Bangkok January 2006

¹⁰³ High HIV, hepatitis C and sexual risks among drug-using men who have sex with men in northern Thailand. AIDS. 19(14):1535-1540, September 23, 2005. *Beyrer, Chris et al*

¹⁰⁴ The Thai Nation Newspaper, December 2002.

In Thailand, there is very little homophobic physical violence or overt antagonism against men who have sex with men, even those who are openly homosexual. Male to male violence is generally under-reported in Thailand as men are supposed to be able to fight back.¹⁰⁵ Same-sex relationships not involving prostitution have never been criminalized in Thailand. The lack of legal restrictions and overt abuse gives the outward impression of tolerance but in reality the social sanctions for non-heterosexual behavior are powerful. Though homophobia in Thailand might appear mild compared when compared to other countries, the denial of social acceptance is one of the most powerful control mechanisms at work in Thai society.¹⁰⁶ According to one gay activist, “The problem for lesbians and gay men in Thailand is not one of direct state repression. Rather, it is a question of subtle negation through invisibility and a lack of social awareness about homosexual people.”¹⁰⁷

Once again the media promote negative images of men who have sex with men that fuel stigma and discrimination—despite the fact that the Thai Press Council, which monitors media ethics, outlines respect for dignity and reputation in its code of ethics. In a workshop one man pointed out that the media has a vital role in sexual health and rights: “Good or bad attitudes to another person only come as a result of what we know. Most of society gets knowledge from the media. At the moment Thai people only know bad things about us so of course they feel fear and disgust.”¹⁰⁸

Access to Health Services

Until recently, government health services and policies have been exclusively targeted at heterosexuals. There has been no national structured response to prevent HIV and STIs for men who have sex with men. There are no consistent services for men who have sex with men, and health providers in mainstream services do not receive any training or information allowing them to deal with issues of sexuality or even practical education about anal sex and other man-to-man sexual activities.¹⁰⁹

The only mention of men who have sex with men in the National Health Plan 2001-2006 is a section that outlines how lack of appropriate child-rearing practices leads children to have a low level of development, poor intelligence, and other health problems, of which homosexuality is listed as the sole example.¹¹⁰

Sex education in primary schools emphasizes social norms and in secondary schools subjects include dating, opposite sex selection, contraceptive choice, marriage, family life, and sexual disorders.¹¹¹ Alternative sexual identities to heterosexuality and same-sex relationships are not included in the curricula.

¹⁰⁵ Workshop participant Violet House Chiang Mai 2006

¹⁰⁶ Anjana Suvarnananda Dear Uncle Go: Male Homosexuality in Thailand, Bangkok: Jackson Bua Luang Books, 1995.

¹⁰⁷ Thai Gay Activist and AIDS campaigner, Khun Natee Teerarojjanapongs

¹⁰⁸ Workshop, Violet House, Chiang Mai, February 2006.

¹⁰⁹ Workshop, SWING, Bangkok, January 2006.

¹¹⁰ Chapter 3, Section 3.32, National Health Plan 2001-2006.

¹¹¹ “Sexual health promotion in Thailand,” Verapol Chandeying Sexual Health Journal CSIRO. 2005.

Sex in prison between men inmates or between inmates and staff may pose the biggest HIV risk for prisoners who do not inject drugs. Condom availability is extremely limited in Thai correctional facilities. The practice of surgical insertion of pearls, jade, glass under the foreskin penile implants is common among Thai men in prison and may add to the risk of transmission of HIV and hepatitis B and C.¹¹² A small group study (689 men) in a Bangkok prison found that before incarceration around 80 percent of the men had had multiple women sexual partners; 95 percent of them had had unsafe sex on at least one occasion; over 25 percent had had sex with men before entering prison, and 80 percent of these were having sex with men in prison. Since condoms are practically unavailable, the likelihood is that they are having unprotected sex.¹¹³ To monitor violence, video cameras have recently been installed in prisons, including in the bathrooms. Opportunities for sex in prison must be sought out much more clandestinely, leading to even less opportunity to have safe sex.¹¹⁴

HIV is believed to have reached high levels among men who have sex with other men. According to surveys conducted last year, HIV prevalence among men who have sex with men in Bangkok increased from 17 percent in 2003 to 28 percent in 2005, and among young men who have sex with men the HIV prevalence tripled within the same timeframe.¹¹⁵ These figures have alarmed public health providers and HIV workers, though it perhaps is not so surprising given that over a decade ago in Chiang Mai the rate was already 15.2 percent among men who have sex with men¹¹⁶ and no specific interventions were offered. The Ministry of Public Health is now recognizing the problem and aims to involve a broad coalition of NGOs in the development of a National Strategic Plan to Strengthen Responses to Prevent HIV/STI among men who have sex with men in Thailand. Though there has been talk of this for some time, no meeting has yet occurred.¹¹⁷

The government has made some moves toward targeting HIV prevention efforts at men who have sex with men, but they need to be augmented.

The Department of Disease Control, in collaboration with the NGO Mplus, has run a joint project aiming to provide clinical HIV/STI testing and treatment for men who have sex with men in Chiang Mai. As most men who have sex with men do not openly identify as such, promoting this service has been limited to encouraging men sex workers to attend. Soaw praphet song sex workers also use the clinic for information and HRT injections. Men who have sex with men but who do not work as sex workers have said they do not use the service as it is not geared toward them. As one man said in an interview, "It is not anonymous enough and has become orientated to soaw praphet song and sex worker issues."¹¹⁸ Supporting an evaluation of this model and developing strategies so services reach a wider

¹¹² Thai Gay Activist and AIDS campaigner, Khun Natee Teerarojjanapongs

¹¹³ HIV infection and risk factors among Bangkok prisoners, Thailand: Hansa Thaisri, et al

¹¹⁴ Personal communication with former inmate of Chiang Mai prison Chiang Mai February 2006

¹¹⁵ Frits van Griensven HIV/AIDS Collaboration Partnership United States Communicable

Disease Center and MoPH Bangkok February 2006.

¹¹⁶ HIV Sero-surveillance 1992 Bureau of Epidemiology Division, Thai Department of Disease Control

¹¹⁷ Interview Violet House Chiang Mai February 2006

¹¹⁸ Personal communication Chiang Mai February 2006

group of men who have sex with men should be a priority. Appropriate training for medical staff and allied professionals is an essential component of creating such services.

Recent government concern for the health of men who have sex with men, however, does not yet translate into acceptance of same-sex relationships. For example, the Chiang Mai Department of Disease Control in January 2006 organized a mass wedding for 1000 couples as part of a campaign to promote HIV testing before marriage and marital fidelity. Even though they were struggling to recruit enough couples for the quota, department staff said they would not include same-sex couples, as it is “against Thai culture.” However, staff commented that if they were to be included it would increase the number of couples by at least another thousand.

Currently, in Thailand the added stigma of “disease spreader” has not been attached to men who have sex with men. There should be great caution exercised in undertaking any attempts to identify and focus HIV prevention efforts at men who have sex with men. If their basic sexual health, social acceptance, and rights are not addressed in tandem with HIV campaigns such efforts may very well increase stigma and discrimination, as happened for sex workers in previous campaigns.¹¹⁹ In focusing on the risks posed by having sex with sex workers, the more vital message of using condoms and having safer sex with all partners was obscured and ultimately lost.

While writing this report, it was announced on February 2, 2006 that Thailand will launch its first HIV/AIDS prevention campaign aimed at men who have sex with men, which will be run by the USAID-funded Family Health International (FHI), local nongovernmental organizations and government agencies, including the country’s Ministry of Public Health. During the five-month campaign, called Sex Alert, a public relations firm will disseminate information on safer sex to men who have sex with men through magazine and radio advertisements, cell phone text messages, the Internet and posters, Somchai Srip-lienchan, FHI’s national director for Thailand, said. “The campaign will direct MSM to call centers and websites providing information about HIV and safer sex. Flyers, postcards and condoms with lubricant will also be distributed.”¹²⁰

Even though USAID Regional Mission Director Tim Beans said, “HIV detection and prevention efforts among MSM have been hampered in part because of stigma and because the group has been excluded from the national HIV prevention strategy,”¹²¹ nothing in this five-month campaign would seem to address issues of stigma. None of the men who have sex with men or the NGOs who support them knew anything about the campaign before it was announced, and they question whether a public relations firm has an enough awareness to lead it.¹²²

Using the Internet to reach men who have sex with men is not a new initiative in Thailand.

¹¹⁹ Interview with Chantiwipa Apisuk Director Empower Foundation Bangkok January 2006

¹²⁰ Khwankhom/Vedelago, The Nation/Asia News Network, 2 February 2006

¹²¹ Article, The Nation/Asia News Network. Khwankhom/Vedelago 3 February, 2006

¹²² Interview Khun Samran Violet House Chiang Mai February 2006

The Utopia-Asia.com website, for example, was founded in 1995 with the goal of providing positive social alternatives for Asia's gay and lesbian communities. The website has always carried HIV information, news, and advice. The idea of further using the Internet as a major HIV resource for men who have sex with men was explored in 2004. UNESCO began support of a website in Chiang Mai created by the NGO Mplus. This was in response to reports that the culture of men who have sex with men in Thailand was changing due to the increasing use of the Internet as a dating tool. The project consists of a website (www.healthgay.com) and two project staff who maintain the website and provide online counseling. Project activities include referral to HIV testing and counseling services, advice on condom and lubricant use, and clarification of misconceptions about HIV/AIDS and homosexuality. Although it is currently being evaluated, Mplus reports that on the whole it has not been a very effective intervention, in part because they say there are very few men who use the Internet. Further, the website can provide information but there is no possibility of follow-up. Currently, Mplus is thinking of arranging activities where website members can meet up together for information sharing and support.¹²³

Khun Samran, who works at Violet House in Chiang Mai, reports that many men do not go out planning to have sex, which means they are likely not carrying condoms or lubricant. Often unsafe sex happens simply because there is no condom immediately available. Focusing on making condoms available at places men meet up may be more effective than focusing solely on individual behavior. This is supported by research undertaken by Rory Gallagher in Phuket, where he promoted the need for place-based interventions for men who have sex with men.¹²⁴

Before appropriate place-based interventions can be implemented, law enforcement practices must be improved. In 2003, UNAIDS expressed concern over the disappearance of free condoms from gay saunas. Since the launch of the Thai government's Social Order Policy, many of the gay saunas have been raided repeatedly during the past two years. Sauna owners were advised that condoms could be used as evidence against them if they were charged with operating sex establishments and they stopped handing out free condoms. "Anything that hampers access to tools of HIV/AIDS prevention jeopardizes the whole program," said Dr. Swarup Sarkar, the former country program development advisor for UNAIDS.¹²⁵

It is important to keep in mind that the HIV risk being measured when looking at men who have sex with men is the risk of unprotected anal sex, especially with multiple partners combined with social attitudes that prevent men from seeking information and treatment. The risk of unprotected anal sex is unrelated to the gender of sexual partner, except that men generally have shown a greater unwillingness to use condoms than women. General HIV prevention campaigns that include safer alternatives to penetrative sex and information for

¹²³ Interview Mplus Chiang Mai January 2006

¹²⁴ Shifting markets, shifting risks: HIV/AIDS prevention and the geographies of male and transgender tourist-orientated sex work in Phuket, Thailand' Rory Gallagher

¹²⁵ Vanishing Condoms Spark Alarm: The Nation, December 15, 2003

protection during anal sex whether with men, women, or soaw praphet song, would be an important and timely intervention strategy.

Men who have sex with men would be excellent resource people to be involved in sex education curriculum development and teacher training. But in order for this to happen, there must be a wider effort to address negative social attitudes against men who have sex with men through positive media, public education initiatives, and the training of health providers.

A-8 Sexual Health and Rights Situation of - Women, Soaw praphet song and Men Sex Workers

Profile

When sex workers are discussed in Thailand people usually think of women who sell sex to men. Although the vast majority of sex workers are in fact women, some men and soaw praphet song also do sex work. Men and soaw praphet song sex worker organizations are relatively new in Thailand. Family Health International—whose principal donor in Thailand is USAID—funds most of these groups. The USAID funding restrictions mean sex worker organizations are being prevented from directly advocating for the rights of sex workers to be free of discrimination and free to make their own sexual decisions.¹²⁶ There are numerous opportunities for supporting sex worker organizations and strengthening allied advocacy between sex workers to promote sexual health and rights.

The three genders of sex workers have a complex relationship. Many sex workers hold the same negative attitudes toward each other as does the rest of society. There is often underlying resentment between soaw praphet song and women sex workers, intensified by professional competition for heterosexual customers.¹²⁷ Although men sex workers do not directly compete professionally with either group, men workers are usually quick to make sure they are not confused with soaw praphet song, not only because it is an inaccurate label, but because they do not want to experience the increased stigma associated with being identified as soaw praphet song.¹²⁸

Although informal ties and cooperation between NGOs working with sex workers is strong, support for activities that improve understanding and strengthen grass roots alliances between sex workers is a key to strengthening advocacy efforts. It would be especially fruitful for the groups who represent sex workers to be supported to meet regularly to share strategies, future plans, and potential areas of cooperation. Finding commonalities and points of convergence is appropriate to Thailand's culture and history of activism.¹²⁹

Accurate figures of how many people do sex work in Thailand do not exist. In 1992, the Chulalongkorn University Population Institute estimated the number to be 210,000 women

¹²⁶ Andrew Hunter Asia Pacific Network of Sex Workers Bangkok, January 2006

¹²⁷ Empower workshop with sex workers Phuket December 2005

¹²⁸ Interview Khun Tee SWING Bangkok January 2006

¹²⁹ Personal communication Chantiwipa Apisuk February 2006

sex workers and this is the figure the Thai government currently uses.¹³⁰ Estimates of 5,000 to 50,000 exist for men sex workers and similar ranges for soaw praphet song sex workers. Some NGOs have given estimates of up to 800,000 women sex workers. Sex worker activists debate the relevance of counting sex workers and say it is more useful and urgent to address human rights issues—especially working conditions—that create a barrier to sex workers achieving HIV protection and their sexual health rights.¹³¹

Sex workers in Thailand work in a variety of venues including bars, saunas, massage parlors, karaoke lounges, and brothels.

Entertainment places are required to register under the Entertainment Place Law of 1960, though it is estimated only about a 30 percent of places do so.¹³² Many of the registered places are the large massage parlor complexes and bathhouses. Even for those places that are registered, there are no occupational health and safety (OH&S) standards required under the law. Assisting owners to implement OH&S standards in these registered places starting with issues of water cleanliness and safe equipment may provide the first step in introducing issues of employer support for safer sex and health standards in other types of venues.¹³³

There are also sex workers working independently on the streets, or in parks or cinemas. They mainly work with working-class customers or alternately prominent Thai men who do not want to be observed buying sex.¹³⁴ Another group works in discos and nightclubs, with both Thai and foreign men. Sex workers will work outside establishments for a variety of reasons. Some prefer not to have a boss and reject the available working conditions in entertainment places. Others find it difficult to find work in established entertainment places. Some have not yet turned 18 years old, some are refused employment because they considered by employers to be too old, and some are undocumented migrants. Some are university students or have other day jobs and seek work in more anonymous venues. Others do not have the time to commit to regular sex work or are amateurs rather than professional sex workers.¹³⁵ As many work in isolation and do not fully identify as sex workers it is likely they have little access to specific sexual health education or services.¹³⁶ They are underrepresented in current programming and advocacy.

General Views

Although the greatest level of discrimination towards sex work exists in political and academic realm, sex workers also encounter deep hostility from all levels of society. They are not seen as members of a work force, but rather as pariahs who are bringing shame on themselves, their families and even on the country's international image. Employers are not seen as businesspeople but are labeled as organized criminals. Customers are not similarly stigmatized and are rarely referred to at all outside public health circles. The 100% CUP

¹³⁰ Sexual Transmitted Disease Division, Department of Communicable Diseases, Ministry of Public Health

¹³¹ Interview Pornpit Puckmai Coordinator Empower Chiang Mai January 2006

¹³² Interview with Chantiwipa Apisuk Director Empower Foundation Bangkok January, 2006

¹³³ Andrew Hunter Asia Pacific Network of Sex Workers February, 2006

¹³⁴ Interview Surang Janyam SWING Bangkok January 2006

¹³⁵ Workshops with sex workers Bangkok and Chiang Mai January-February 2006

¹³⁶ Woman sex worker workshop Empower Chiang Mai 2006

program worked to change men's brothel-going behaviors. In the mid 1990s, around 57 percent of Thai men reported buying sex. Just ten years later, in 2003, only five to ten percent of Thai men were willing to report that they have bought sex in the preceding year.¹³⁷ A reduction in customers on that scale should have meant a significant change in the economic viability of the entertainment industry, yet this does not seem to be the case. There has been a decrease in number of brothels but the increase in the numbers of other entertainment places resulted in an overall increase in the size of the sex industry from 8,000 establishments in 1998 to over 12,000 in 2003, and sex workers do not report massive unemployment.¹³⁸

Sex work is seen by society as being an easy life for lazy, uncouth people with low morals. Sex worker-focused HIV campaigns like the 100% CUP program have added the stigma of "disease spreader" to the mix. Many government officials, academics, health service providers, civil servants, and much of the general public use derogatory terms when talking about and to sex workers. Many sex workers also self-stigmatize.¹³⁹

Media

The media reinforce negative stereotypes. Media focus is almost exclusively on women doing sex work, especially stories that portray women as criminals or alternatively hopeless victims of violence, disease, and ignorance. One sex worker pointed out that the US government stance on sex work has influenced its coverage in the Thai media, saying, and "The media portrayal of us."¹⁴⁰

Whenever the media focuses on prostitution issues in Thailand this is inevitably followed by crackdowns with increased oppression, arrests, and police raids, especially if the international media is involved. Reporters are taken on these police raids or rescue operations and photograph sex workers without consent. These crackdowns exacerbate the existing difficulties sex workers face.¹⁴¹ This has important implications for any advocacy efforts for sex workers that need to involve the use of international attention. If such efforts are to be undertaken they would need to be largely created and managed by Thai sex worker organizations and Thai sex worker activists.

Sex workers are often treated as objects of ridicule with no rights to privacy. In 2001, four migrant sex workers from China were stripped and held by police so reporters could photograph them. These photos were published in one of the major tabloids. Groups protested about this incident and some informal agreements about police behavior were reached but no action against the police or newspaper was taken.

In another instance that highlights the privacy issues sex workers face, a well-known Thai TV company recently ran an undercover exposé on men sex workers, using a hidden camera

¹³⁷ Ministry of Public Health, Bureau of Epidemiology, HIV Serosurveillance in Thailand (1989-2003)

¹³⁸ Survey conducted by the Sexual Transmitted Disease Division, Department of Communicable Diseases, Ministry of Public Health.

¹³⁹ Workshop women sex workers Empower Chiang Mai & Interview Surang Janyam SWING Bangkok January 2006

¹⁴⁰ Interview Pornpit Puckmai Coordinator Empower Chiang Mai February, 2006

¹⁴¹ Personal Communication Jackie Pollock MAP Foundation Chiang Mai February 2006

and focusing on shots of their genitals, despite prominent and clear signs forbidding filming and cameras displayed in the bars.¹⁴²

On a positive note, a handful of Thai journalists who work for English language media continually report positively on sex workers. Activities aimed at addressing compliance with media codes of ethics, sensitizing media to human rights including sexual rights especially at editorial levels, could improve the level of reporting.

Sex Work and Condom Use

Although researchers, policymakers, and others often make assumptions that sex workers would agree to having unprotected sex for extra money, this is probably more myth than documented fact.¹⁴³ There is a surplus of data and statistics available about the rates of condom use by sex workers, mainly women sex workers, for Thailand. The core issue is the reluctance of sex workers' clients to use condoms. This is well documented and recognized. Family Health International's AIDS in Asia report noted "the majority of the sex workers who did not use condoms with their last client, in places where condoms are easily available, say it is because the men refuse to use them."¹⁴⁴ Nit, a sex worker in Chiang Mai, put it even more succinctly: "Wherever we, the sex workers, have the power, we have safer sex."¹⁴⁵

The widely acknowledged role of power plays in safer sex not yet been translated into developing national HIV policies and campaigns that work to empower and improve the sexual health rights of sex workers in Thailand. The issue is compounded by the lack of availability of condoms and lubricant.

Alarming, the Thai government stopped supplying free condoms in 2005. The prime minister felt that 20 years of free condoms for the Thai public was sufficient and removed the supply of free condoms from the public health budget. Instead the government will provide cheap condoms via government condom vending machines. Despite the government's promises, as of February 2006, these machines have not yet been installed.

Sex worker organizations have access to condoms for distribution via donor agencies such as the Global Fund to Fight HIV, TB and Malaria for Migrant Workers, Population Services International, and Family Health International. However, organizations distributing condoms to sex workers are only in a few geographical locations and cannot be expected to meet the demand the government's abdication of responsibility has created.

Lubricants were never distributed as a part of the 100% CUP. Lubricant was promised as part of the Global Fund Against HIV, TB and Malaria for Migrant Workers funded projects three years ago but none has yet been distributed under this program.¹⁴⁶ Population Services International (PSI), a social marketing group, packages single-use sachets of water based lubricant for sale at five Baht and distribution through its projects. Lubricants are often

¹⁴² Interview SWING Bangkok January 2006

¹⁴³ Interview Chantiwipa ApisuK Director Empower Foundation Bangkok January 2006

¹⁴⁴ Aids in Asia FHI report 2005

¹⁴⁵ Workshop participant Empower Bangkok January 2006

¹⁴⁶ Interview Pornpit Puckmai empower Chiang Mai January 2006

neglected as an unimportant part of safer sex. Women sex workers are not necessarily sexually aroused when having sex with a customer and lubricant is always essential for anal sex to decrease discomfort, injuries, and condom breakage. Lubricants are relatively expensive, costing the equivalent of a minimum day's pay for one tube. The cheapest and most commonly available commercial lubricant is inappropriately packaged for sex workers, in a tube about the size of large tube of toothpaste.¹⁴⁷ Support for increased production and distribution of affordable single-use sachets or tubes of lubricant would be a simple and effective measure in assisting sex workers to improve their sexual health.

Sex Work and Law Enforcement

Prostitution in Thailand was first criminalized in 1960 and remains so under the Suppression and Prevention of Prostitution Act 1996. Specifically it is illegal to:

1. Advertise prostitution.
2. Recruit or arrange for the prostitution of others.
3. Solicit causing public offense/nuisance.
4. Associate with others for the purpose of prostitution.

More severe penalties apply for all those involved in the prostitution of minors. The young person involved, though not officially guilty of a crime, is generally sent to juvenile detention for rehabilitation. Having committed no crime means they have no specific length of time attached to the length of their detention. Instead, a subjective decision is made when they are considered "rehabilitated" and ready for release, or else they are released when they reach adulthood. Under this law a minor is defined as a person under the age of 18. Legal age of sexual consent is 16 years old and legal marriage age is 17, with parental approval required until the age of 20.

The penalty for a sex worker over the age of 18 is a maximum 1,000 THB fine or a 10-day jail sentence. However, the charge becomes part of the person's recorded history, which can have ramifications for future employment, visa applications, etc. Police use this fear of arrest to extort bribes and/or free sex.¹⁴⁸ Sex workers who do not work in an entertainment place are more vulnerable to police harassment though all sex workers face some degree of police abuse.¹⁴⁹

Undocumented migrant sex workers face a double threat: arrest for illegally entering the country and/or arrest for prostitution. This vulnerability exists despite the fact they pay 6,000–14,400 Baht a year each in regular bribes to police.¹⁵⁰ This is much higher than the national police bribe average, which in 1999 was reported as between 2,688 Baht (Bangkok) and 7,921 Baht (Chiang Mai) a year for the average household.¹⁵¹ Migrant sex workers from Burma are under even more pressure. Official deportations of arrested and rescued undocumented migrant sex workers resumed in 2004. Prior to that, deportations had been

¹⁴⁷ Workshop participants SWING Bangkok 2006

¹⁴⁸ Workshop participants Empower Chiang Mai February 2006

¹⁴⁹ Interview Surang Janyam SWING Bangkok, January 2006

¹⁵⁰ Workshop with migrant sex workers empower Chiang Mai February 2006

¹⁵¹ Pasuk Phongpaichit. *Corruption in the Public Sector: Opinions and Experiences of Households*, 1999.

halted since 1992 because Thai authorities feared for the safety of the returnees. Shan Women's Action Network and migrant sex workers from Burma report such deportations can result in arrest, mandatory HIV testing, and forced labor in Burma.¹⁵² (There is no mandatory HIV testing in Thailand.)

Conflicting laws regulating the entertainment industry add opportunities for the police to extort money. For example, as a part of the 2003 Social Order Policy, most entertainment places must close at midnight. If they are a registered restaurant, closing is 1:00 a.m., and if they are part of a hotel complex, closing time is 2:00 a.m. Under the Entertainment Place Law of 1960 workers must be 18 and over, yet customers must be 20 years old. Under the government Social Order Policy, Prime Minister Thaksin hoped to protect young people by implementing a new drug and alcohol policy that went into affect on March 1, 2006 (after the completion of this report). The policy states that alcohol cannot be consumed by anyone below 21 years of age. Currently, legal drinking age is 18 years old.¹⁵³ Can 18-20 year old workers, who make their money from being bought drinks by customers, consume alcohol at work? It's not clear. If a worker is 18-19 years old he or she cannot visit the bar outside of work hours. If you are 19 years old how much time do you have to leave the premises after you finish work? Twenty-year-olds can go to bars, but will not be allowed to drink. All this fails to achieve the goal of regulating entertainment places and protecting minors. Rather, it leaves room for confusion that the police can then exploit.¹⁵⁴

Although not permissible as evidence in Thai law, police use the presence of condoms on premises or persons as suspicion of prostitution. This leads to reluctance by owners of establishments to stock adequate numbers of condoms for their workers.¹⁵⁵

Under the law it is difficult for police to prove the illegal act of prostitution has taken place. Police try to solve this by posing as customers, paying for sex then arresting the worker. In a high profile incident in 2004, two women in Bangkok were arrested for prostitution. Along with marked money, the undercover police offered up the semen in the condoms they had used when they had sex with the women as evidence that prostitution had indeed taken place. The two women, who said they worked as cleaning staff in the massage parlor, in turn charged the police with rape. Eventually charges were dropped against all parties.¹⁵⁶ These entrapment operations take place despite the fact that under police procedure guidelines entrapment operations can only be used for drug crimes. This type of entrapment exercise is not used to arrest soaw praphet song or men sex workers.¹⁵⁷ However, men and soaw praphet song sex workers working outside the system face nightly police harassment, extortion and/or arrest on public nuisance charges.¹⁵⁸

¹⁵² Interview with Jum Thong, Shan Women's Action Network Chiang Mai February 2006

¹⁵³ Interview Surang Janyam SWING Bangkok 2006

¹⁵⁴ Interview Chantiwipa Apisuk January 2006

¹⁵⁵ workshop participants Empower and SWING

¹⁵⁶ Bangkok Post 2005

¹⁵⁷ sex worker participants SWING Mplus Bangkok & Chiang Mai January February 2006

¹⁵⁸ Interview Surang Janyam SWING Bangkok 2006

Political approaches to prostitution have an impact on, and are frequently inseparable from, control programs. Safer environments for sex workers are critical so that the prevention programs designed to help them can reach them.¹⁵⁹

Recognizing entertainment places as workplaces that require worker security and protection like other work places, and revoking the remaining articles under the law that criminalize adult sex workers would be a major step towards their protection and empowerment and raise the safety standards in the industry.

Religion

As mentioned above, an overwhelming majority of people in Thailand are Buddhist. It follows that most sex workers are Buddhist. They strive to follow their religion and make large contributions to local temples. Although both Christianity and Islam specifically forbid prostitution, Buddhism is less clear. It does not specifically prohibit sex work and is a religion that generally encourages tolerance, yet most people consider sex work to be in violation of Buddhism. At a sex workers' workshop held at Empower in Chiang Mai in February 2006, sex workers generally felt, The Buddha said a person is a sex worker because of their karma. However this is also true for people in other jobs and lifestyles. The minimum that is required of the lay Buddhist is embodied in what is called the Five Precepts, the third of which relates to sexual behavior. Although the Buddha mentions several types of sexual behavior as being "unskillful," especially adultery, sex work is not discussed.

Self-Health Care

In theory, the 30 baht health scheme covers all Thai sex workers. However, this scheme requires that the person register with a particular government health service in the same geographical area as the person's official place of residence. Each Thai household must hold a document known as "house registration," which records the names of those who reside there. This document must be produced when applying for a Thai Identity Card, passport, and now the 30 Baht health care card. Many sexual minorities and almost all sex workers migrate. When living in another area people need to transfer their name to a household registered in that area. Sex workers live in rented accommodation and often work in unregistered entertainment places. It is extremely difficult for them to find local residents willing to include them on their house registration. This means the 30 Baht health service is practically inaccessible.

The government Social Security Scheme covers other internal migrant workers' health needs. This scheme does not extend to cover entertainment workers, as they are not recognized as workers.

Like the majority of low-income Thai people, most sex workers self-medicate in response to illness or, in the case of sexual health, to a perceived risk such as condom breakage. All antibiotics and non-addictive drugs are available over-the-counter in drug stores. Sometimes

¹⁵⁹ Community involvement and networking Family Health International www.fhi.org/topics.sexwork

the advice of the pharmacist is sought, though not always, especially if the symptoms are related to sexual activity.

Many drug stores sell “shutes,” a small bag containing three to four antibiotic capsules, two simple pain relievers, and a few vitamin tablets. They are a cheap and popular, yet ineffective as a “cure-all,” and they increase the likelihood of drug resistance. Sex workers claim the long waiting times, lack of understanding at hospitals, perceived inferior medications at government hospitals, and the expense of private clinics make self-medication a preferred option.¹⁶⁰

Sex Work and In-Country Migration

Part of the global culture of sex work is migration. Sex workers rarely work in their home communities. Thai sex workers move to another province to work, often to the larger cities or tourist areas like Chiang Mai, Bangkok, Pattaya, and Phuket. Arriving from a rural area to a large city is disorientating. Their sexual health knowledge, including how to prevent HIV, is a reflection of the knowledge available in their home communities. HIV campaigns that reach men and women in rural areas have all but disappeared over the last five years, leaving people with little HIV awareness. Revitalizing general HIV prevention campaigns everywhere, but especially reaching rural areas, is essential to the sexual health and safety of new sex workers.

People starting sex work for the first time are, at best, provided with some very basic condom messages from senior staff or management. For the first few months they may not have enough knowledge, skills, or assertiveness to work safely. They are unlikely to be able to use their right to 30 baht health care card in their new place of residence and may not know where health services can be accessed.

Lack of social acceptance means most sex workers do not discuss their work with their families. This does not necessarily mean that families do not know, only that the issues are likely to cause embarrassment or conflict and are not addressed openly. This can easily exacerbate sex workers’ isolation and feelings of poor self-worth.

To help counter sex workers’ lack of knowledge about their sexual health, sex worker advocates have suggested that all new workers are offered training, including but not limited to sexual health training, as part of occupational health and safety efforts in their workplaces.

This will involve strengthening the ability of sex worker organizations to advocate for and provide access to sex worker-friendly services, such as healthcare, education, counseling and community support.

Sex Work and the Thai Economy

Since 2002, the Thaksin government has been investigating ways of co-opting the black market economies of gambling, underground lotteries, and prostitution. It was estimated by a government commission that the Thai sex industry has an annual turnover of 40-50 billion THB. Others have given much higher estimates of the contribution of sex workers to

¹⁶⁰ Workshops with sex workers Chiang Mai and Bangkok January/ February 2006

the Thai economy. The US government estimates the industry's contribution to the Thai economy ranges from 2.9 percent and 3.6 percent of Thailand's total GDP of \$410 billion.¹⁶¹ However, since it is an illegal business the government has no way of collecting any revenue. To address this, a public seminar was hosted in 2003 by the Ministry of Justice to discuss changes to the legal status of prostitution, but no official report has ever been released. A government commission followed up with an investigation into the most efficient way to manage sex workers. This commission recommended that sex workers should be recognized under the labor law. There has been no official response. However, the recognition of the economic contribution sex workers make to Thailand, and an interest in legitimizing the sex industry for revenue, may provide some common ground for opening discussions between sex workers and the government. It is a timely opportunity to strengthen efforts to advocate for the decriminalization of sex work and awarding sex workers the labor rights and protections they need to protect their sexual health.

Sex Workers as a Problem to be Solved¹⁶²

Most HIV, health, and social welfare NGOs see sex workers as a problem or target group who present a risk to the health of others. Their activities, like outreach, may be designed and implemented without any prior knowledge or experience of sex work. This easily leads to inappropriate services, such as men doing outreach to women sex workers.

These NGOs usually do not include sexual health rights or sex worker rights advocacy as a part of their sex worker programs. USAID funding policy encourages this neglect of rights issues by insisting that the organizations they fund provide only basic services to sex workers, while opposing sex work at the same time. They do not advocate improving working conditions, decreasing law enforcement abuses, or ending forced repatriations of arrested or rescued sex workers. This creates a situation where organizations like World Vision, supply condoms to undocumented migrant sex workers in border areas but also participate in police raids. In one area affected by the tsunami, World Vision was unable to offer help to women in the brothel areas because they had been involved in a raid three months before the natural disaster resulting in their being effectively shut out in the community ever since.

Sex Workers in Need of Rehabilitation¹⁶³

Some groups, both foreign and locally funded, are focused on sex worker rehabilitation activities that are similar to the Thai National Economic and Social Development Board projects. The government program only concerns itself with the rehabilitation of women. Women are confined to a government detention center. The most infamous, Baan Pak Kret, is isolated on an island in the river of Bangkok. Here they are taught how to be "good Thai women," taught basic sewing or handicraft skills, regardless of whether they already have these skills or if they can offer a livelihood. These groups focus on women, but most also include soaw praphet song. They offer similar vocational skills, highlight the immorality of sex work, and encourage redemption. Some also encourage people to convert to Christianity.

¹⁶¹ Trafficking in Persons (TIP) Report 2004 ; US State Department

¹⁶² Interview Pornpit Puckmai Empower Chiang Mai January 2006

¹⁶³ Interview Chantiwipa Apisuk Empower Foundation January 2006

*Sex Workers as Victims of Trafficking*¹⁶⁴

In a third type of service commonly offered to women migrant sex workers, they are labeled as “victims of trafficking” and rescued. NGO workers posing as customers visit entertainment places. If they feel migrant sex workers are victims of trafficking they will lodge a complaint with police. Police raid the premises, arresting any woman not identified as a victim of trafficking. As most are undocumented they will then be handed over to immigration authorities for informal deportation. This means a sex worker will be fined 2,000 THB, transported to a border area, and told to go home. However, those women identified by the NGOs as “victims” are confined to detention centers, examined, and interviewed with or without translation—or consent. They also eventually will be deported, often only after being presented at court as witnesses in the prosecution of traffickers. As yet, anti-trafficking groups have made no petition to the court to allow a woman to remain in Thailand after she provides evidence, and no effort to pursue compensation for the women. Under the MOU (Memorandum of Understanding) on Trafficking their details are sent to the authorities in their home countries and the suitability of their families and homes assessed. At a minimum in some neighboring countries this procedure exposes the fact the woman has been doing sex work and she will incur all the social sanctions that it involves; at the most extreme in Burma it can result in arrest of family members. Waiting for court cases or approval from home countries can take many months. Many escape their “rescuers” in order to return to work and continue supporting their families. Anti-trafficking NGOs are relatively new in Thailand and mainly supported by US government funding.

According to the UN Special Rapporteur on Violence Against Women, Radhika Coomaraswamy, “some women’s organizations are fuelled by a moral imperative of ‘saving’ innocent women. Thus, some programs derive from the perception that women need to be ‘rescued and rehabilitated’, rather than supported and granted rights.”¹⁶⁵

Chantiwipa Apisuk from Empower Foundation says, “These activities just cause more suffering for women. Looking at sex workers as victims does not in any way improve the quality of their sexual health or rights. They must be treated with respect as adults and considered workers in order to have good sexual health and rights.”

Sex Workers as Workers

The great majority of sex workers in Thailand work in an entertainment place. They sell drinks, chat, play snooker, dance, perform, or give massages. For the most part the work performed in entertainment places does not include exchange of sexual services for money. That is done privately; it is an arrangement between two adults and it should not be a matter for state or legal interference, any more than any other kind of adult sexual relationship in Thailand.

Abuses are allowed to occur in the sex industry because people outside the law control it. Empower advocates for the re-creation of the industry. If those in control were to be considered as legitimate employers and those working in the industry as legitimate employees then the industry becomes accountable under the same legal and labor controls as

¹⁶⁴ Interview Apho Norta Mae Sai Chiang Ria, 2006

¹⁶⁵ UN Special Rapporteur on Violence Against Women, Radhika Coomaraswamy (2000)

other industries. Employers would be required to comply with existing minimum labor standards, including enrolling their employees in the social security scheme. They would have the same responsibility to any migrant sex workers they employed. Entertainment places would be required to develop and implement occupational health and safety standards. Removing the threat of arrest and becoming recognized employees in a legitimate industry is the first step towards empowering sex workers to fully exercise their human rights, including but not limited to their sexual health rights.¹⁶⁶

Sex Work and Labor Laws

At present employees working in entertainment places are not considered covered by the Thai Labor Laws, whether they are a cashier, dancer, sex worker, or doorman. This situation enables each employer to create his or her own laws for workplace standards and practices, including work hours, pay rates, sick leave, holidays, etc. Currently entertainment place employers wield significant power to compel workers to make decisions about accommodation and the purchase of beauty products and cosmetic surgery that benefit the employer's business interests. Employers also frequently create a host of "bar rules" which, when broken, attract fines or salary cuts. Arbitrary salary cuts and other "rules," such as requiring workers to present proof that they are HIV negative in order to collect their salary or keep their job, are either illegal under Thai labor law and/or contrary to Thai law and the Constitution.

Migrant workers in the entertainment industry cannot register as migrant workers with the labor office. Unlike migrant domestic workers, seafarers, and other general laborers they remain undocumented and vulnerable to labor exploitation and human rights abuses from employers. Action Migrant Network, which represents migrant sex workers, among others, continues to lobby the government to expand work categories to include entertainment workers.

Only about 30 percent of entertainment places are registered under the 1960 Entertainment Place Law. Employees who work in a registered establishment are required to go to the police station and provide a detailed personal history recorded on a charge sheet, complete with photographs and fingerprints. This information is recorded using the same form used for a criminal suspect. No other employees in Thailand go through such a procedure and it is unconnected to the labor office. In addition, they are officially recorded as being "nang bam luer," a term formally defined as "concubine." Yet sex workers explain that the term is commonly understood as "someone whom you can do anything to sexually without blame or consequence."¹⁶⁷ No other employees in Thailand go through any such procedure.

Sex Work and Social Security

Although it is possible for employers of entertainment workers to enroll their staff in the Thai Public Security Scheme, a majority does not do so, leaving sex workers generally without access to unemployment and sickness benefits.

¹⁶⁶ Interview with Empower January 2006

¹⁶⁷ Workshop empower Chaing Mai February 2006

Sex Work and Employee Protection

Employers, with the exception of brothel owners, superficially distance themselves from any sexual activity between sex worker and customer. The worker sets their own payment rate and employers don't directly profit from this, though they do collect a "bar fine" paid by the customer to take the worker out of the bar. This relationship absolves employers of any legal consequences and responsibility for training, support or protection. In brothels, employers take no responsibility for migrant sex workers, but do collect at least 50 percent of these workers' earnings.

i) ADDED ISSUES FOR WOMEN SEX WORKERS

Women's role

In Southeast Asia, there is a long-standing cultural tradition of women playing a major role in providing a "good life" for their families, especially parents, siblings and their own children. In modern terms, this "good life" largely translates into financial security. This places most Thai women, and also women from Burma, Laos, China and Cambodia firmly in the role of family breadwinner, particularly women who are single parents. Southeast Asian women without professional qualifications usually find employment in factories, retail outlets, restaurants, agriculture, or domestic labor at rates of pay equal to or less than the minimum wage. In this context, it is understandable why some Southeast Asian women choose the greater economic opportunities of sex work to help them fulfill their role of providing their families with a "good life."

Profile

Women sex workers in Thailand are generally between the ages of 23 to 25 when they begin working. The age range of women sex workers currently studying with Empower Foundation is 18 to 53 years old, which is representative of the industry. Most women come from rural areas and many from farming families. The majority identify as heterosexual or bisexual. In addition to using sex work to provide for their daily needs, some sex workers are earning income for specific goals such as building a family home, raising capital for a small business or farm, or paying for a child's education. Migrant sex workers from Burma—where the military oppression and human rights abuses make a "good life" all but impossible—work to cover the family's ongoing living expenses like food, health, and state bribes. Eighty percent of women doing sex work in Thailand are single mothers who have, on average, one to three children when they start work. Most women provide the main financial support for an average of five to eight other family members. Those working for specific goals may resign from sex work when the goal is reached, and may work again for another goal at another time.¹⁶⁸

Venues

There are a small number of women working on the streets and in parks in both Bangkok and Chiang Mai. There are also growing numbers of women working independently, meeting with customers at discos and nightclubs. However, most women sex workers work in

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Thanta Laowilyakul Sex Worker & Empower Health Programme Coordinator

entertainment places. Thailand's sex industry venues appeal to the various customer preferences. Go-go bars and "Beer Bars" attract Western men. Asian tourists and middle-class and wealthy Thai men prefer karaoke bars and massage parlors. Brothels, which typically have the lowest prices, cater mainly to low-income Thai and migrant workers. Each place and sector also varies in the working conditions as there are no standardized regulations for working conditions¹⁶⁹

Safer Sex

"Women doing sex work have always wanted protection against STIs well before the advent of HIV. In order to have safer sex in sex work several things need to be in place: freedom to decide the number of customers and which ones. [They want] partners who are free from STIs, adequate water-based lubrication, a condom of the right size, and a man willing to wear it."¹⁷⁰

Many women doing sex work cannot afford to take time off if they have an STI or when they are menstruating; they have no paid sick leave and only one or two days off per month. Working conditions often prevent women from being totally free to choose their customers, or to decide on the numbers of customers. Most employers set a minimum monthly number of customers for each sex worker that is not seasonally adjusted. This means women are sometimes obliged to go with customers they would normally reject as being potentially non-cooperative or violent. Employers of migrant sex workers are usually able to demand their workers go with higher numbers of customers and limit their opportunity to reject customers.

The working conditions and relationship with HIV is clearly reflected in the statistics that show undocumented migrant sex workers with an HIV rate of 10.9 percent, while Thai or documented sex workers with better working conditions have a rate of 3.7 percent.

Despite the high HIV infection rates among undocumented migrant sex workers, there have been no coordinated national or international HIV programs addressing women's working conditions in sex work. This is a major gap and priority issue for sexual health and rights.

Condoms and Lubricant

Instead of improving working conditions, most HIV prevention efforts have centered on compelling sex workers to get clients to use condoms, and decreasing the number of available customers. Decreasing customer numbers, however, has also effectively decreased the power of sex workers to choose whom they will work with. Men resistant to the "don't go to prostitutes" campaigns are the same men who also resist condom use most strongly.¹⁷¹ Programs like the 100% CUP have had limited effects. Most men only became more willing to use condoms with women sex workers because they see sex workers as "diseased," while sources of free sex such as girlfriends, lovers, and wives are seen as safe. Yet even with this changing perception, only a small portion are willing to use condoms. Some 45 percent of men who said they bought sex in northern Thailand reported not using condoms with all sex

¹⁶⁹ Working Conditions in Entertainment Industry in Thailand empower 2004 unpublished

¹⁷⁰ Pornpit Puckmai Sex Worker & Coordinator of Empower Chiang Mai

¹⁷¹ sex worker Empower Chiang Mai workshop February 2006

workers.¹⁷² In a youth survey in the same region, the rates were even higher, with more than two-thirds of young men who paid for sex saying they did not always use a condom. Only 61 percent of male factory workers in Bangkok who bought sex in 2003 reported consistent condom use when doing so. In the same year, HIV prevalence among women sex workers in poor working conditions in the city more than doubled to 7.5 percent. Compared to 98 percent condom use rates in 1997, these recent results indicate significant backsliding, according to UNAIDS. However, the high usage rates of the past occurred when women sex workers were compelled to always report 100 percent condom use and those with suspected STIs were kept hidden by employers worried about closures. Anecdotally women sex workers have always found the highest real condom rate among Thai men was 60 percent and Western tourists 90 percent.

Wilai, an experienced migrant sex worker from Burma says, “I’ve been working for ten years now and about four out of ten Thai men won’t agree to use a condom no matter what, and about one out of ten Western tourists”

Lubricant is effectively unavailable though a vital part of safer sex and was discussed earlier.

Women sex workers in Thailand do not often use female condoms. Currently, female condoms only come in one size, are not sexy to look at and cost three times as much as male condoms. There is interest among women sex workers for more options in female condoms, particularly when these sex workers have to deal with drunk or reluctant customers. Advocating for producing a female condom that is more acceptable to consumers would give women another level of protection. As discussed earlier, lubricant—although a vital part of safer sex—is effectively unavailable in Thailand.

Contraception

The vast majority of women sex workers use a second method of contraception apart from condoms. Most commonly, women sex workers use the oral contraceptive pill or Depo Provera injections. Both of these are available over the counter and health check ups are not required before using them. Depo Provera is less popular because of its potential side effects such as weight gain, irregular bleeding, depression and loss of sexual response including less natural lubrication. Widespread use of these types of contraception has made unwanted pregnancies among sex workers quite rare.

Self-Health Care

The negative health care practices common in Thailand today arise from two main factors. The first is the increasing inaccessibility of government health services. The second is a lack of awareness about good sexual health care for women sex workers both by service providers and women sex workers themselves.

Public health STI clinics previously provided the most sustainable resource for sexual health care to women doing sex work especially undocumented migrant sex workers who could access services safely. Over the last year these clinics have been closed nationally as a part of the government re-structuring of the health system. Given that STI treatment is a major part

¹⁷² Lertpiriyasuwat, Plipat et al 2003

of HIV prevention and also that STI levels provide an early warning of HIV spread this is a startling development. The government believes that offering STI services at public hospitals is sufficient. However, the hospitals are only an option for Thai women and documented migrant women. Additionally, the attitudes of health care staff toward sex workers largely reflect the prejudices and stereotype of the larger society. Most hospital staff have little knowledge about the sexual health issues of women sex workers. Services are only provided in early morning and waiting times can be up to five hours. Condoms are not available. Contraceptives are managed in a different department and doctors are reluctant to prescribe them to unmarried women. These obstacles make it unlikely that women sex workers will use the hospital STI services.

Very few women sex workers routinely have sexual health checks. Most of these women self-medicate or visit private clinics if they experience symptoms or feel they have been exposed to risk. To date, the sexual health of sex workers has received much less attention than sexual disease. Sexual health is seen as something deserving of “good” married and monogamous women, “bad” women are only given sexual disease education and services.¹⁷³

A large number of the products and services for women’s sexual and reproductive health focus on culturally established notions of women’s genitals as unclean. In Thailand, women’s underwear is not only washed and dried separately but must be dried separately from men’s clothing, preferable hung on a low clothesline hidden under a sarong. Stores have rows of products to clean and deodorize women. It isn’t surprising that vigorous douching especially after sex remains a common practice among women, especially women sex workers. Some doctors will “clean out” the uterus (perform a dilation and curettage or D&C) of women sex workers simply because they have been having “a lot of sex.”

It is important to note that health care behavior of sex workers can change quite rapidly. Empower Foundation has seen that women sex workers with access to information, support, and access to sex worker friendly health services soon begin to have regular monthly STI checks. These sex workers are more likely to see a doctor before self medicating for non-sexual health issues as well.¹⁷⁴

HIV Knowledge and Testing

Women doing sex work in Thailand are afraid of HIV. Almost all know that HIV is sexually transmitted and that condoms offer protection. Ongoing fear leads many women sex workers to have regular HIV tests with the sole aim of reassuring themselves they are HIV negative. Until 2001, women sex workers were tested regularly. Government STI clinics had developed pre and post-test counseling skills, and had implemented procedures protecting people from results they were unprepared for. With the disappearance of these clinics available testing is now done in private clinics and hospitals that may offer no counseling at all. Many non-Thai customers take women for a rapid HIV test before they have sex. Not only is the test futile due to the three month window period, but customers do not get

¹⁷³ Chantiwipa Apisuk Empower Foundation January 2006

¹⁷⁴ Thanta Laowilyakul Sex Worker & Empower Health Programme Coordinator

themselves tested, as they presume themselves to be risk free and are motivated by protecting themselves from the sex worker.

With the dramatic scaling down of government and non-government prevention campaigns, HIV knowledge and sexual health information is passed in an adhoc fashion from woman to woman. Misconceptions about HIV persist, mainly concerning other methods of transmission and have promoted fears about sharing food or touching people with AIDS.

HIV Positive Women Sex Workers

Women doing sex work are supporting their families. If they become HIV positive their role as family provider does not change; their need for a certain level of income is not decreased, and their ability to ensure that the man uses a condom has not changed, even though their desire for him to do so is usually increased. Changing work is not a real option. The structure of the sex industry is such that the places with better working conditions are often also the places that require a monthly negative HIV result. HIV-positive women sex workers are usually forced to change work places moving into more exploitative conditions. If they become ill, family members who relied on their earnings may not be able or willing to care for them. Unlike other workers sex workers cannot draw social security benefits. Currently, the women sex worker community has a single care center operated by Empower Foundation.

ii) ADDED ISSUES FOR SOAW PRAPHET SONG SEX WORKERS

Soaw Praphet Song Sex Workers

The entertainment industry offers one of the few occupational opportunities for soaw praphet song due to work place discrimination and general stigma. Even so the numbers are very small, especially in Chiang Mai where there are fewer than 100 soaw praphet song working. Bangkok offers more sex workplace options as does the tourist resorts of Patong and Pattaya. There are no groups specifically working on issues of soaw praphet song as sex workers. Rather, a number of groups combine many issues and work with all soaw praphet song, and often combine projects with men who have sex with men. It is not clear, however, whether soaw praphet song sex workers are satisfied with these arrangements.

Overall, there are about the same number of venues available for soaw praphet song in the entertainment industry as venues for men sex workers. Soaw praphet song are often the main attraction entertainment places can promote for foreign tourists not wanting to buy sex. The fame of Thailand's soaw praphet song brings a diverse range of customers into many bars. Soaw praphet can charge 100-200 baht for posing for photographs. Those who perform in cabaret or dance shows are usually on a salary. Bar rules and fines similar to other sex workers apply. As soaw praphet song are still considered men under the law, legal restrictions that apply to women, such as having to keep nipples covered are not applicable.

The large majority of soaw praphet song doing sex work have breast implant surgery rather than full sex reassignment. Though some may be saving for the reassignment many report

that most of their customers prefer them to still have a functioning penis rather than a vagina so they can be both the passive and active partner.

Although police rarely use entrapment, as they do with men sex workers, police are more violent and abusive toward soaw praphet song sex workers than women sex workers. “The policeman was very rough with me. I’m sure he thought I was just a man in a dress but I’m not, I’m a woman”¹⁷⁵ Soaw praphet song also encounter violence from customers, although with less frequency than attacks against men sex workers.

Most soaw praphet song sex workers know that HIV is sexually transmitted and a condom offers protection. After Mplus reported back to a groups of soaw praphet song that the HIV prevalence for them was thought to be over 15 percent they were very surprised. They assumed it would be 90 percent and that all soaw praphet will become infected. This perception highlighted the internalization of stereotypes and assumptions of the larger society and suggests that these problems can be addressed by positive role modeling and information provided by trusted sources. Although outside the planned geographical area of this study, Sisters, a soaw praphet song sex workers group in Pattaya, has strong community leaders who are doing excellent support work and disseminating safer sex and HIV information to other workers.

iii) ADDED ISSUES FOR MEN SEX WORKERS

Men’s Role

Sex work is not seen as work for “real men” it isn’t respectable, involves same sex relations and isn’t seen to require either physical strength or intelligence.

Men sex workers tend to have a wider variety of educational and professional qualifications than women sex workers. Most men with no recognized professional qualifications are employed in public and private transport, factories, retail outlets, restaurants, agriculture, construction, the military or seafaring. However, some men within this socio-economic category have found that sex work can offer greater economic opportunities. Men with higher levels of education and/or professional qualifications who do sex work predominately identify themselves as homosexual. They choose sex work as the job that provides a good income while not demanding that they act straight, which in Thai culture can often include accompanying your boss or workmates to buy sex from women.¹⁷⁶

*Profile*¹⁷⁷

For decades, men sex workers have been invisible in national policy, media and society. Men sex workers in Thailand generally begin working between the ages of 18 to 20. The average age range of 18 to 25 among men sex workers in establishments is quite narrow compared to women. Owners of establishments see men over the age of 25 as unemployable and those who wish to continue working, move out of the system. Most employers and bar workers

¹⁷⁵ interview Chiang Mai January 2006

¹⁷⁶ Phone interview men ex workers SWING February 2006

¹⁷⁷ Workshops and interviews men sex workers SWING Bangkok 2006

explain this phenomenon as resulting from the customer preference for young men. Most men sex workers are Thai and come from rural areas and many from farming families. Many have children though most are not currently in a relationship with the mother of their children. Men sex workers do not usually contribute regularly to the family but are expected to contribute in times of need or for special occasions and many temporarily return home during harvesting to help with farm labor.

Most, though not all, of men sex workers working with men identify themselves as homosexual or bisexual. Homosexual men sex workers are not usually willing to work with women customers. Bisexual and heterosexual sex workers may be willing to work with women, yet most report having very few women customers. Those who do report having women customers find that most are tourists from Japan and the United States, who are generally happy if the worker uses a condom.

Most men doing sex work in the non-tourist entertainment places in Chiang Mai are undocumented migrants from Burma. Customers are almost exclusively men, both Thai and resident foreigners.

Sex between men is still illegal in Burma. All communities in Burma are strongly homophobic and decades of military dictatorship have meant that they have been excluded from international dialogue around shifting attitudes and beliefs. Men sex workers from Burma all identify as heterosexual, though it is possible given their situation, they are unable to identify otherwise.¹⁷⁸

Currently, Mplus provides basic HIV information and knowledge but it is of urgent priority to address their issues of confusion, self-recrimination and shame.¹⁷⁹ There is a well-respected Burmese man who now lives in Thailand, openly identifies as gay and works on gender issues. Supporting his involvement with this group of workers would be an excellent intervention.

A small minority of young Thai men regularly meet and form holiday relationships with foreign women at guest houses, on tours and in popular tourist hang outs. They are also paid in cash and/or kind but very few of the men identify as sex workers and the women don't identify as customers.

Customers are willing to pay more for sex with men sex workers who are often able to charge twice the rate that women sex workers can.

Venues

There are far fewer venues for men sex workers to choose from than women. Bangkok's Patpong area has some 50 men sex worker bars as opposed to about 300 bars where women sex workers are employed. Chiang Mai has about 30 men sex worker bars and about 500 women's venues. In Bangkok, most men work in bars, saunas and massage parlors in tourist areas; while in Chiang Mai, the bars are in both tourist and non-tourist areas. Men sex

¹⁷⁸ Phone Interview Women's League of Burma February 2006

¹⁷⁹ Interview Mplus Chiang Mai January 2006

workers are not paid a salary and do not receive a share of the “bar fine” the customer pays, only receiving 30 baht on drinks customers buy for them at a cost of 200 baht.

Migrant men sex workers in Chiang Mai work under similar exploitative conditions to migrant women sex workers.

Unlike venues where women work, in most bars where men work they have a sex show. These shows involve extended periods of masturbation, oral and anal sex. Audience participation is frequently a component of the shows. Condoms are routinely used in most bars during shows, though the sex is often rougher and more forceful. Men sex workers use elastic banding to maintain an erection for prolonged periods of time. Pain, soft tissue injuries, and inflammation are common. Men receive 300 baht show.

Venues with men sex workers generally pay a higher police bribe than bars with women sex workers. For example, a Bangkok women’s bar pays 10,000 to 20,000 baht a month, while the cost for operating a men’s bar is 30,00 to 50,000 baht. The higher amounts are generally reserved for bars with sex shows. Failure to pay or efforts by police to extort extra money result in police-ordered closures. These occur more commonly in bars with men sex workers. In order to avoid these costs, many venues are changing to appear more like private parties or one-off events. Owners can claim the venue is not an entertainment place, they have no staff and all those present are customers or guest’s thereby shutting police out. Unfortunately, taking this action also means men sex workers in those places no longer have access to groups offering support, safer sex education, condoms and lubricant, as in order to maintain the charade, outreach teams are refused entry.

A larger proportion of men sex workers than women sex workers work from the streets, parks and local cinemas. This can be attributed to more customers wanting to remain anonymous; the narrow age range for men within the system, and fewer venues; combined with the fact that men have less fear suffer no social sanctions when they are outdoors after dark.

Violence Against Men Sex Workers

Men sex workers report they are frequently victims of physical and sexual violence from their customers (men). The violence involved ranges from emotional abuse, pushing and slapping, to rape. As mentioned earlier, rape and sexual assault laws do not make provisions for men in Thailand. There is no data regarding the violence men sex workers face though anecdotal evidence suggests it is a major concern.¹⁸⁰ A group of men migrant sex workers from Burma attended a HIV/AIDS training in Chiang Mai said a major concern was rape and the lack of legal options available to them.¹⁸¹

The general level of domestic violence against women in Thailand is high. A WHO survey in 2000 found that over 40 percent of women had been physically or sexually abused by a partner.¹⁸²

¹⁸⁰ Interview with SWING Bangkok January 2006 : Mplus Chiang Mai February 2006

¹⁸¹ Personal Communication Jackie Pollock MAP Foundation January 2006

¹⁸² UNIFEM Bangkok Contribution to “The Goalposts Move: A Changing Epidemic (2004-)”

While it is hard to measure something that is not happening, Empower Foundation reports that assault and rape of women sex workers by customers is not a common occurrence. Like other women in Thailand and around the world they are more at risk from men in authority, husbands, lovers and family members.¹⁸³

In the absence of other data about the cause of higher rates of violence for men sex workers than women, sex workers have arrived at their own theory. They feel customers are violent because they need to prove they are the dominant man in the situation, prove they have more power and are tougher. They feel when men buy sex from women sex workers, there is less of a need to prove they are dominant by using violence, as they already perceive themselves as occupying the dominant position naturally.¹⁸⁴

The problem for all three genders of sex worker is that law enforcement rarely shows a commitment to pursuing cases of violence against sex workers. Projects advocating for rape law reform, impartial law enforcement and activities protecting men sex workers from sexual violence are a priority for the sexual health of men sex workers.

Safer Sex

Like women the main barriers to safer sex men that sex workers encounter are access to appropriate condoms, lubricant and customers (men) willing to wear them. Men also talked about the importance of self worth, the belief that they are someone worth protecting and looking after despite rejection from society.

Condoms

Free condoms have never been consistently made available to men sex workers, especially those who work outside of entertainment places. For some men sex workers working from parks or the street the cost of a 35 baht condom can exceed what they are often paid for oral sex, around 30 baht.¹⁸⁵ The condoms that the government has supplied came in one size only, 49mm, which is small for larger built men. The condoms were of normal strength and were not necessarily adequate for more abrasive anal sex. Lubricant as mentioned earlier, which is absolutely vital for anal sex, has never been available and the government has no plans to address this situation.

Campaigns like the 100% CUP seems to have led men to believe that sex with women sex workers in brothels poses the major threat to their health. This has led to a dangerous false sense of security among men buying sex from men, especially those who buy sex from men who don't work in bars, who are not perceived as unclean sex workers. Generally, men only seem to have safer sex willingly when they feel they are at personal risk. Because of these perceptions, men sex workers must employ much skill to overcome customer reluctance about using condoms.

¹⁸³ Interview Pornpit Puckmai Empower Coordinator Chaing Mai Janaury2006

¹⁸⁴ workshop men sex workers SWING Bangkok January 2006

¹⁸⁵ Interview with Surang jayam SWING Bangkok

SWING has introduced a number of men sex workers to “female” condoms for use during anal sex. Men sex workers report they feel more confident about their level of protection. This confidence and reduction in fear allows them to relax more and therefore helps avoid risk of injury. The challenge lies in renaming and repackaging the “female” condom and promoting it for sex between men before it becomes stigmatized to a point where men are unwilling or embarrassed about using it.

Self-Health Care

Public STI services at the Bangkok government hospital offer an excellent sexual health service for men sex workers. The service is managed by the director of dermatology and VD (venereal disease) division, Dr. Angkana Charoenwatanachokchai. Sex worker community leaders are employed in the service as health workers and reception staff. Health providers from the service also participate in outreach to men and soaw praphet song sex workers. It would be timely to document and promote this service as a model for replication by other government and non-government sexual health service providers. It could also be explored for use in providing services to non-sex worker soaw praphet song and men who have sex with men with men.

Despite general closures of all public STI clinics elsewhere, a new initiative has helped open a public STI clinic for men sex workers in Bangkok. The initiative indicates a positive willingness to address the needs of men sex workers. Public health workers have visited bars to inform men sex workers about the service and have encouraged them to attend. Yet men sex workers report that the clinic, in reality, is not very accessible. The times are inappropriate for night shift workers. It is open at 8am in the morning and men must have made an appointment by 10am if they wish to be seen before mid-afternoon. The clinic only has one doctor who only has about five hours to consult with presenting clients. The doctor has had no training or experience in sex worker issues. This often leads to hurtful and potentially dangerous misunderstandings. Women and men sex workers say they were unable to be honest about their concerns or symptoms when faced with the embarrassment of talking to women assistants and a doctor who does not understand or respect their work. Men sex workers have also been disappointed that the clinic offers no condoms. Men sex workers report the counseling for HIV testing is inadequate and below their expectations. Currently, men sex workers seem to only use the clinic if they have symptoms they are unable to cure themselves.¹⁸⁶

There may be an opportunity for Dr. Charoenwatanachokchai’s model service to be introduced to this new service. If the Public Health service was willing, men sex workers would like to inform and be involved in training public health staff to create a more welcoming and responsive service for men sex workers. Sex workers would like to volunteer to help with counseling and providing ongoing education for the staff and promoting the service in order to promote good sexual health practices. They would also like to see programs that increase self-acceptance and self worth as an integral part of achieving sexual health.

¹⁸⁶

Workshop Men sex workers January 2006

HIV Knowledge and Testing

Men doing sex work in bars generally know that HIV is sexually transmitted and that condoms offer protection. This basic information is given to new workers by more experienced workers. There is no information available about the level of knowledge and access to information for men sex workers working outside entertainment places. It is likely that they have to rely on the trickle of information currently reaching the general public. Projects that provide extra information to men sex workers who work in bars and put them in contact with men working outside the system would increase HIV knowledge and protection. Not surprisingly, men sex workers report higher numbers of partners than non-sex workers and the consequence may be higher rates of HIV infection. Random single studies in Thailand's capital, Bangkok, report between 15 and 23 percent of men sex workers were HIV positive. This is lower than the rate of HIV infection among non-sex workers. Men sex workers estimate that their HIV rate is closer to 15 percent. Like other sex workers and couples in general, their experience is that safer sex is easier to achieve in a business relationship than in personal ones that involve love and issues of trust.

Accurate information about the existing level of HIV positive men sex workers or non-sex workers does not exist. However, men sex workers strongly caution about prioritizing data collection over prevention. "We need a supply of proper condoms, lubricant and sexual health services we can really use first before anybody starts testing, counting and collecting statistics."¹⁸⁷

HIV Positive Men Sex Workers

Unlike women sex workers, most men sex workers do not receive a salary so there is no requirement for them to prove their HIV negative status and many HIV positive men sex workers generally continue to work. If a man sex worker becomes ill, he cannot draw social security benefits. Those who are sick often return to their homes, if they can, or rely on friends as there are currently no facilities offering care for men sex workers with AIDS.

B. Summary of Law and Policy

B-1 Relevant Laws

1.1 Relevant national laws that work to promote the sexual health and rights of sex workers and men who have sex with men:

Ratification or accession of international laws and conventions:

- ❖ The Universal Declaration of Human Rights;
- ❖ The WHO Constitution prescribing total access to health rights;
- ❖ International Covenant on Civil and Political Rights but not the Optional Protocol, with the result that individuals cannot bring complaints against the government for the breach of the guaranteed rights;

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Men sex workers workshop SWING January 2006, Bangkok

- ❖ Convention on the Elimination of All Forms of Discrimination against Women Accession;
- ❖ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;
- ❖ International Covenant on Economic, Social and Cultural Rights Accession;
- ❖ Currently, ILO (International Labor Organization) occupational safety and health standards proposed for ratification.

National Laws

Constitution of the Kingdom of Thailand, B.E. 2540 (1997)

Internal Rights Mechanisms

- The National Human Rights Commission
A politically unaligned National Human Rights Commission created in 1997. The King with the advice of the Senate appoints individual members to the National Human Rights Commission. The Commission has the power to investigate alleged human rights abuses, including demanding access to documents, interviewing suspects and witnesses. The role of the commission is to report on and attempt to resolve any acts that violate human rights or which do not comply with Thailand's obligations under international treaties. Unresolved issues are reported to the national assembly and it has the power to recommend changes in laws, policies and regulations to promote and protect human rights. The Commission also has a role in rights education and promoting collaboration between all stakeholders in the field of human rights. It submits an annual human rights situation report to the National Assembly. Each commission works for a 6-year term and members cannot be re-appointed. The current Commission has three more years to serve.
- Lawyers Council of Thailand
Formed in 1985, the council has the responsibility of providing legal aid and promoting human rights under international, national and constitutional laws. It is currently active on several human rights cases.

1. 2 Relevant laws that work as a barrier to advancing the sexual health and rights of sex workers and men who have sex with men:

1. Prevention and Suppression of Prostitution Act 1996 (Articles 5,6,7, and 9)
2. Entertainment Place Law 1960
3. The existing Supreme Court's ruling that "an individual's sex is determined by genetic and chromosomal ingredients...and a woman is defined as a person who can deliver a baby"¹⁸⁸ definition of rape under the Penal Code section 276
4. Family Law specifically marriage, divorce and enforcement of child support laws
5. Labor Protection Act, 1998 (B.E. 2541) (exclusion of entertainment workers)

¹⁸⁸ A Supreme Court ruling against Chumpol Silapaprajamphong's application to change her documents says, "an individual's sex is determined by genetic and chromosomal ingredients alone. The Court argued as well that according to the dictionary (specifically the 1950 edition published by the Thai Royal Academy) a woman is "someone who can deliver a baby"

6. The National Social Security Act, (B.E. 2540) 1997 (exclusion of entertainment workers)
7. Foreign Labor Act (BE 2521) 1978(exclusion of entertainment work)

Support for a Thai working group to develop the concrete Thai legal language and Thai phrasing of proposed amendments to these laws in order to advocate more effectively for change would be a useful intervention.

B 2. Relevant Policy

2.1 Relevant national policies that work to promote the sexual health and rights of sex workers and men who have sex with men:

The National Health Act for Health System Reform's strategic statement and principles are broad enough to allow for positive interpretation in regards to the sexual health of sex workers and men who have sex with men.

2.2 Relevant national policies that work as a barrier to sexual health and rights of men who have sex with men and sex workers:

1. 100% Condom Use Policy
2. One Husband: One Wife Policy
3. Geographical restrictions of National Health Care Scheme (30 baht scheme)
4. Policy to eliminate all migrant workers from inner Thailand within five to ten years.¹⁸⁹
5. Social Order Policy
6. MOU on Human Trafficking (Thailand; Laos; Cambodia ;China and Burma)

2.3 International mechanisms that work as a barrier to sexual health and rights of sex workers:

USAID Funding Restrictions¹⁹⁰

B-3 Issues in the Health System

Overview of issues of concerns with systems and structures set up to deal with the health care needs and access to HIV/AIDS services for sex workers and men who have sex with men:

- ⊗ The current National Health Development plan is in its final year of implementation (2002-2006). The language of the document is impressive in confirming the need for holistic approaches, health promotion and active participation from all sectors of society.

¹⁸⁹ Ayewaddy-Mekong-Chao Phraya Economic Cooperation Strategy (Amecs)- economic and political cooperation with Burmese Military Regime to create industrial zones in the Burma- Thai border regions using migrant labor

¹⁹⁰ Multiple organizations working with sex workers identified USAID funding restrictions as a barrier to the sexual health and rights of sex workers in Thailand.

- ❧ The National Health Act for Health System Reform 2000 strategic statement is:
“All Thai citizens, regardless of sex, age, occupation, religion, locality, race, education and economic status, are those who live a normally happy life, physically, mentally and socially.”

The following characteristics and/or services are desired:

- (1) Being born and growing up in a well-prepared and warm family environment.
- (2) Being adequately developed physically, mentally and intellectually to be capable of adjusting to a rapidly changing world, and able to make rational consumer decisions, maintaining good health behavior and living happily with a peaceful mind.
- (3) Having health security or insurance and access to rational and appropriate health services, with good quality and at reasonable, equitable cost.
- (4) Living in a well-organized community where resources are pooled and responsibilities are shared, particularly in taking care of the health of individuals, families and communities with emphasis on children, the elderly, the underprivileged and the disabled.
- (5) Maintaining lives and working in a safe and sound environment.

Contrary to the Act articles 2, 3, and 5 it seems:

- ❖ Many sex workers, soaw praphet song, and men who have sex with men are prevented from “living happily with a peaceful mind” because of social stigma and institutionalized discrimination.
- ❖ Sex workers do not have “health insurance” via the Social Security Scheme.
- ❖ Access to health security via the Universal Health Care Scheme is severely compromised, as access to services is only available in ones hometown.
- ❖ “Rational and appropriate health services of good quality health care” are not generally available to soaw praphet song or men who have sex with men. The minimal services previously offered to sex workers such as condoms and STI care have been withdrawn.
- ❖ There are no policies or regulations ensuring entertainment places provide safe and sound work environments.

C. Funding Landscape

C-1 Key Players/Donors

Thailand has been the recipient of large amounts of HIV funding over the past 20 years.

In the past five years, many donors are focusing on a regional rather than country strategy. For example, the Rockefeller Foundation and the Ford Foundation fund programs that focus on the Mekong Region or in the Asia Pacific.

Most NGOs for men who have sex with men, soaw praphet song, and men sex workers are currently supported by Family Health International (USAID) and the United States Centers for Disease Control in collaboration with the Ministry of Public Health.

Sex workers rights organizations rely on the Global Fund to Fight HIV, TB and Malaria and other smaller funders like Christian Aid UK, American Jewish World Service, and NOVIB Oxfam Netherlands.

Ten UN bodies under the coordination of UNAIDS fund various initiatives throughout Thailand usually supporting short-term initiatives.

Global Fund for Prevention of HIV/AIDS, Tuberculosis and Malaria Among Migrant Workers in Thailand provides support for services to Thai and Migrant sex workers.

GLOBAL FUND GRANTS

Approved Proposals for MoPH and Raks Thai						
Country (1)	Local Fund Agent (2)	Rnd	Disease Component	Source	Approved Grant Amount (USD) (3)	Total Lifetime Budgets (USD)
Thailand	KPMG		2 HIV/AIDS		27,541,528 (M)	81,348,535
Totals:					27,541,528	81,348,535
GRAND TOTALS:					27,541,528	81,348,535

C-2- Collaboration Between Donors and Government

The National AIDS Committee, chaired by Prime Minister Thaksin (at the time of this report), is responsible for HIV/AIDS policy development. Coordination of programs is the responsibility of the AIDS Division of the Ministry of Public Health.

Bangkok hosts the Asia Pacific regional offices of 24 UN bodies and other regional HIV donors. UNAIDS coordinate all the UN agencies working on HIV issues. The geographical proximity allows for a greater degree of formal and informal collaboration with the UN, government and non-government than found in many other countries. There is close cooperation between large donors and government at a policy level. Many donors channel funds through the government who in turn disperses them as grants to community projects. Each year the Thai public health strategy is drawn directly from the current WHO policy. There is adequate collaboration between donors and government, but NGOs, community-

based organizations (CBO) and PLWHA could make significant contributions in policy and program development and should be more involved.

The Thai Network of People Living with HIV (TNP+), with over 700 PLWHA groups, is the pivotal center for networking and collaboration on HIV/AIDS work among PLWHA.

Credit for collaboration among government and international and national non-government organizations is due to the Thai NGO Coalition on AIDS (TNCA). With over 150 members, it is the core mechanism in coordinating all HIV/AIDS programs among NGOs. In addition to the formal members in TNCA, it is estimated that, country-wide, there are more than 500 NGOs or CBOs working in the field of HIV/AIDS.

Rifts in these collaborations between civil society and government are appearing. Decreasing health and AIDS budgets combined with the perceived lack of commitment by government to community consultation has led to PLWHA groups and NGO's becoming dissatisfied and frustrated with the government. In July 2005, for the first time in decades the TNCA chose not to attend the annual joint government and non-government National AIDS Conference. Instead they staged their own people's forum in December 2005. TNCA protested that the government's decision to focus solely on youth issues for the National event was not inclusive enough.

C-3 Funding Gaps

Most funding available is geared towards providing HIV education, information and to some extent access to health services and condoms. It would be timely to support a shift away from offering HIV prevention services to minority groups who are perceived to pose a risk to wider society and instead tackle some of the sexual health and rights issues minority groups face. There is little available funding for forming stronger rights-based networks and alliances and scaling up organizations' ability to analyze and organize around rights abuses. Generally much of the current funding is seen as too short-term and not flexible enough to allow an appropriate response to changing situations. Funding needs to be a minimum of five years and be open to a wide range of strategies and applications e.g. use of culture and art. "... too often, prevention strategies are lacking sufficiency of scale, intensity and long-term vision. For prevention interventions to give the results necessary to get ahead of the epidemic, projects with short-term horizons must translate into long-term programmatic strategies."¹⁹¹

III- RECOMMENDATIONS

Programmatic Priorities and Interventions are:

¹⁹¹ UNAIDS/WHO AIDS Epidemic Update: December 2005

1-General Priority Measures and Interventions to Improve the Sexual Health and Rights of Sex Workers, Men who have Sex with Men and Transgender People:

- Support the production of positive media by transgender people, sex workers and men who have sex with men
- Promote dialogue with the Press Council of Thailand around the enforcement of the media ethics
- Support efforts to sensitize media to the rights and concerns of sexual minorities, especially at editorial levels.
- Support the involvement of youth, especially young transgender people and men who have sex with men, in school sex education curriculum development and teacher training.
- Address stigma through use of art and culture projects, creating positive media, sex education and sensitizing health providers.
- Address violence against men, with particular attention to the need to change rape laws.
- Address men's unwillingness to use condoms.
- Launch national HIV prevention campaigns that include information about safer anal sex, and sex for people with a created vagina.
- Increase access to condoms and lubricant.
- Investigate the re-naming and re-packaging of the female condom to make it more acceptable and accessible for transgender people, sex workers and men who have sex with men.
- Conduct a thorough evaluation of clinics for men sex workers and men who have sex with men in order to develop models and strategies, so appropriate services can be created to reach a wider group of men.
- Support training programs for medical staff and allied professionals in sexual health and rights with transgender people, sex workers and men who have sex with men having input into course design and implementation.

2- Priority Measures and Interventions to Improve the Sexual Health and Rights of Men who have Sex with Men.

- Provide information, support and counseling services for men with a special emphasis on sexuality issues.
- Support placed-based interventions that provide condoms, lubricant and information where men who have sex with men socialize.
- Create programs aimed at raising consciousness around sexual health and rights among non-sex worker men who openly identify as having sex with men, to foster and support community leaders and activists willing and able to advocate for the sexual health and rights of all men who have sex with men.
- Promote HIV and STI prevention for men who have sex with men, taking into account their high rates of substance use and multiple partner types.¹⁹²
- Advocate around condom, lubricant and harm reduction in Thai prisons and police lock ups.
- Form networks with women's groups e.g. Foundation for Women who are working on changing traditional social mores around gender roles, marriage and family.

3- Priority Measures and Interventions to Improve the Sexual Health and Rights of Transgender People

- Request the National Human Rights Commission investigate the laws around gender identity.
- Strengthen support services for transgender people and their families.
- Identify priority sexual health issues that are common to all transgender people.
- Strengthen transgender community leaders to be able to disseminate sexual health and HIV information; train and inform health providers.
- Form networks with women's groups working on changing traditional social mores around gender roles, marriage, and family.

4- Priority Measures and Interventions to Improve the Sexual Health and Rights of Sex Workers

- Strengthen allied advocacy and networking between sex workers to promote sexual health and rights, including regional and international networking.

¹⁹² High HIV, hepatitis C and sexual risks among drug-using men who have sex with men in northern Thailand. AIDS. 19(14):1535-1540, September 23, 2005. *Beyrer, Chris et al*

- Create activities that improve understanding and strengthen grass roots alliances between sex workers.
- Advocate for occupational health and safety standards in larger more established massage parlors and spas as a first step in improving health standards in other types of entertainment venues.
- Strengthen and support efforts to advocate for the decriminalization of sex work.
- Support networks with labor groups, e.g. Thai Labor Campaign, working on improvements to labor law and access to the social security scheme.
- Advocate for the inclusion of sex workers under the protection of labor laws and social security scheme.
- Support sex workers participation in sexual health and rights networks and forums.
- Lobby the government to expand migrant work categories to include entertainment workers.
- Support services and counseling for migrant men sex workers from Burma, especially around sexual identity issues and self worth.
- Strengthen the ability of sex workers and sex worker organizations to advocate for and provide safer sex education, counseling and sex worker friendly health service providers.
- Production and distribution of affordable single-use sachets or tubes of lubricant would be a simple and effective measure in assisting sex workers to improve their sexual health.
- Advocate for impartial law enforcement.
- Create activities protecting, especially men sex workers, from violence.

ANNEXE 1

Acknowledgements:

This report was prepared by Elizabeth Cameron in February of 2006. The Sexual Health and Rights Project (SHARP) would like to thank Ms. Cameron and all of those who contributed to her research, including sex workers, men who have sex with men and their allied organizations, namely Empower Foundation, SWING, Sisters, Bangkok Rainbow, MPlus and Violet House. In addition we would like to thank the Thai Ministry of Public Health directors and staff.

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Sexual Health and Rights Project contact information:

Sue Simon
Director, Sexual Health and Rights Program
Network Public Health Programs
(1) 212 548 0166
ssimon@sorosny.org

Rachel Thomas
Program Associate, Sexual Health and Rights Program
Network Public Health Programs
(1) 212 548 0337
rthomas@sorosny.org

ANNEXE 2

Scope of Work



Sexual Health and Rights Program (SHARP)

Terms of Reference

Needs Assessment/ Mapping of Sexual Health and Rights in Thailand

Time period: January 1 - March 31, 2006

Duration: approximately 31 days

Background:

In April, the Network Public Health Program (NPHP) of the Open Society Institute officially launched the Sexual Health and Rights Program (SHARP) to develop and implement a global strategy to improve the sexual health and rights of socially marginalized populations. Existing HIV/AIDS epidemics linked to high-risk sexual practices or the violation of sexual rights and the potential emergence of new HIV/AIDS epidemics among socially marginalized populations are of particular concern. As a new program, SHARP will create a strategic framework for its activities, to ensure that it complements existing (internal and external) efforts, makes a valuable contribution to the field, and executes a well thought-out approach.

In initial strategy discussions, Southeast Asia was identified as a possible priority region for SHARP funding. Considerations include the epidemiological profile of the AIDS pandemic, other funders (or lack thereof), and ability for impact with limited resources.

SHARP has been working closely with OSI's Southeast Asia Initiative, the SHARP Advisory Group members with strong SEA expertise, and others to inform the development of a strategic plan. The joint decision is for SHARP to commission an assessment of two countries: Thailand and (most likely) Indonesia. The focus of SHARP's resources will be the sexual health and rights needs of sex workers (including female, male and transgender sex workers) and men who have sex with men (including gay men, bi-sexual men and transgender men)—especially related to HIV/AIDS prevention.

Funding will support some of the following activities: the piloting of innovative direct service initiatives; efforts to promote self-empowerment and advocacy skills; organizing across allied communities to support sexual health and rights concerns; policy/advocacy efforts related to equal access to HIV prevention, treatment and care; enhanced

legal/legislative protections; analysis/mapping of target population demographics, services, policies, resource allocation and needs; improved networking/info sharing mechanisms; convenings; capacity building for nascent organizations/movements; monitoring efforts; media education/training; better police/law enforcement relationships with affected communities; fund-leveraging efforts; protection/better use of evidence base around sexual health and rights; links to community economic development opportunities; and an enhanced voice in local, national and global public health and social justice for sex workers and MSM.

In order to create a strategic plan for how resources should be allocated, SHARP and the Southeast Asia Initiative plan to bring together a group of stakeholders in early to mid-March in Bangkok to further identify:

- 1) geographic, population and/or issue focus
- 2) funding criteria
- 3) prioritized intervention areas

We would like to commission a “mapping” tool in Thailand to support these planning efforts, which would be focused on urban settings, especially Bangkok and Chang Mai. The analysis would encompass the policy landscape; the programmatic landscape; and the funding landscape. To that end, SHARP is looking to hire a consultant to undertake the research and writing for the assessment.

OSI Background, Experience and Potential:

The Open Society Institute works to build vibrant and tolerant democracies whose governments are accountable to their citizens. To achieve its mission, OSI seeks to shape public policies that assure greater fairness in political, legal, and economic systems and safeguard fundamental rights. On a local level, OSI implements a range of initiatives to advance justice, education, public health, and independent media. At the same time, OSI builds alliances across borders and continents on issues such as corruption and freedom of information. OSI places high priority on protecting and improving the lives of marginalized people and communities.

Investor and philanthropist George Soros in 1993 created OSI as a private operating and grant-making foundation to support his foundations in Central and Eastern Europe and the former Soviet Union. Those foundations were established, starting in 1984, to help countries make the transition from communism. OSI has expanded the activities of the Soros foundations network to encompass the United States and more than 60 countries in Europe, Asia, Africa, and Latin America. Each national foundation relies on the expertise of boards composed of eminent citizens who determine individual agendas based on local priorities.

Historically, OSI has prioritized protecting the health and human rights of socially marginalized populations, including sexual and reproductive health and rights. Since 1995, OSI has undertaken a range of domestic, international, and global activities, from increasing the diversity of safe abortion methods to funding grassroots women's NGOs in the Middle East and North Africa. Various OSI programs have supported activities that include: capacity building for NGOs, lawyers, and health providers in policy advocacy and litigation; advocacy and model service delivery efforts; public education and training/sensitization of health providers; and research and data analysis codifying the sexual health and rights experiences of vulnerable populations.

Objective:

This evaluation will provide useful information for development of a regional strategy related to sexual health and rights of marginalized populations. An initial strategy overview of SHARP is attached. The goal of this assessment is to answer outlined strategy questions in order to inform strategy dialogue and discussions. Recommendations should be based on the assessment as well as the consultant's knowledge of the field of Sexual Health and Rights in Southeast Asia, specifically Thailand.

The consultant should submit to OSI a proposal which includes the methodology of the assessment (methods, tools, timeline, and key stakeholders) and a budget. This needs to be approved by the Director of SHARP in Network Public Health Programs, New York before the field work commences.

Tasks of the Consultant:

- Propose an assessment methodology and report outline. The study methodology should include time line, methods, study tools and target individuals/communities/organizations. Included in the methodology should also be a list of the pertinent questions that are expected to be answered through the evaluation. These include but aren't limited to:
 - What are the specific national context issues that most impact on the sexual health and rights of vulnerable or marginalized populations?
 - What are the relevant national policies and/or laws that work as a barrier to advancing sexual health and rights of vulnerable or marginalized populations? And those that work to promote them?
 - What populations are most exposed to either a lack of sexual health care services or a violation of sexual rights that make them particularly vulnerable to HIV infection?
 - What are the policies or programmatic priorities required to advance sexual health and rights of marginalized/vulnerable population's vis-à-vis the AIDS pandemic?
 - Who are the key players/donors in the field of Sexual Health and Rights as related to or impacting on the AIDS pandemic?
 - What are the funding gaps related to SHR and HIV/AIDS?
 - What issues are particularly timely to move on in order to best promote SHR?

- Meet/discuss with OSI staff to finalize study objective and methodology.
- Conduct assessment in Thailand.
- Prepare and submit first draft report for comments to OSI staff.
- Integrate comments into final report.
- Present report at a strategy meeting of OSI staff and SHR health experts. The meeting will be held in Thailand in early to mid-March.

Output:

A final assessment report on the policy, programmatic and funding landscape around Sexual Health and Rights and HIV/AIDS in Thailand. The report should include recommendations aimed at OSI staff on possible funding strategies, partners, and pertinent issues.

Attending a strategy meeting by SHARP to take place in early to mid-March in Thailand to present the assessment.

Working relationship:

The consultant will work with the SHARP/Network Public Health Staff in New York. The OSI contact information is as follows:

Sue Simon
Director, Sexual Health and Rights Program
Network Public Health Programs
(1) 212 548 0166
ssimon@sorosny.org

Rachel Thomas
Program Associate, Sexual Health and Rights Program
Network Public Health Programs
(1) 212 548 0337
rthomas@sorosny.org

ANNEXE 3

List of Persons Interviewed

Asia Pacific Network of Sex Workers: Andrew Hunter, Secretary
Bangkok Rainbow
Department of Disease Control, Division 10: Dr. Surasing, Deputy Head
Empower Foundation: Pornpit Puckmai, Coordinator
Empower Foundation: Chantiwipa Apisuk, Director,
Empower Foundation: Thanta Laovilawanyakul, Health Coordinator
Family Planning Association: Dr. Tasana, Director
MAP Foundation: Jackie Pollock, Director
Mplus Foundation
Northern AIDS Division, Department of Public Health: Dr. Tassanee, Department Head
Rainbow Sky Association of Thailand
Shan Women's Action Network: Hseng Hnong, President ,
Sexually Transmitted Infection Provincial Department: Dr. Kiangsuk, Head
SWING: Surang Janyam, Director
Task Force on Migration, Lawyers Council of Thailand: Pranom Somwong, Sitting Member
Violet House: Khun Samran, Coordinator

In addition, interviews were conducted during workshops and informal discussions with sex workers and men who have sex with men.