



**POLICY
BRIEF**

**Overlooked, Ignored, Forgotten:
HIV and Basic Rights of Transgender People in Asia
and the Pacific**





China
China Male Tongzhi
Health Forum (CMTHF)

India
India Network for Sexual
Minorities (INFOSEM)

Developed Asia
Develop Asia Network (DAN)

Transgender
Asia Pacific Transgender Network (APTN)

Greater Mekong
Purple Sky Network (PSN)

South Asia
South Asian MSM and AIDS
Network (SAMAN)

Insular Southeast Asia
Insular Southeast Asia Network (ISEAN)

PLHIV MSM
APN+ MSM Working Group

Pacific
Pacific Sexual Diversity
Network (PSDN)

Youth
Youth Voices Count (YVC)

Australasia
Australian Federation of AIDS Organizations (AFAO)
and New Zealand AIDS Foundation (NZAF)



UNDERSTANDING TRANSGENDER PEOPLE	2
THE TRANSITION OF GENDER ALIGNMENT AND OTHER MEDICAL ISSUES	3
HIV AND TRANSGENDER PEOPLE	4
STIGMA AND PREJUDICE	5
AT THE HANDS OF THE LAW: LEGAL MARGINALIZATION	7
BASIC RIGHTS AND THE DUTY TO PROTECT EVERYONE	8
WHAT'S NEXT? RECOMMENDATIONS FOR THE NEAR FUTURE	9
Research to acquire basic information on Asia Pacific transgender communities	
Research the impact of HIV on Asia Pacific transgender communities	
Support the development of transgender people and their organisations	
Sensitizing and training all those involved in access to public health care systems	
REFERENCES	11



Understanding transgender people

Transgender people are an integral part of the traditional culture of many countries in Asia and the Pacific and in many places have been accepted into traditional daily life. In September 2012, a regional meeting of transgender advisers and activists adopted a working definition for transgender people in the Asia Pacific context. The adopted definition states that transgender people are: “Persons who identify themselves in a different gender rather than that assigned to them at birth” and may choose to “express their identity differently to that expected of the gender role assigned to them at birth.” Transgender people in the region “often identify themselves in ways that are locally, socially, culturally, religiously, or spiritually defined,”¹ using local terminology and indigenous labels, despite these terms often being derogatory and marginalizing. A report in 2012 documented 50 such different terms for transgender people across 16 countries.²

However, acceptance and integration of transgender women and, to a lesser-documented extent, transgender men, into the daily fabric of local community life has diminished in recent times. Many assert that this change has been influenced by ‘western’ ideals. Societal acceptance and support of gender identification and varied sexual orientation has been declining, which is resulting in heightened discrimination of transgender people.³ Cultural and economic influences from the west have brought stigma, prejudice and discrimination towards those in Asia and the Pacific region who are transgender, along with men who have sex with men (MSM) and women who have sex with women.

Same same but different: Transgender people are not MSM

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



The transition of gender alignment and other medical issues

Taking actions to help achieve gender affirmation or alignment is typically an important and necessary step for a transgender person to properly assert their correct gender orientation. These actions include dressing in the clothing and accessories appropriate to the self-identified gender (sometimes referred to as cross-dressing),⁴ modifying the body through surgery, transplants or injections of silicone, altering the biological makeup of the reproductive system through the taking of hormones, and gender-reassigning medical procedures, known as sexual reassignment surgery (SRS). Many or most transgender people do not utilise SRS due to lack of availability, affordability or access; SRS should not be seen as an end to gender transitioning.

In other words, a transgender woman, assigned a 'male' identity at birth, might now affirm her female identity by dressing and acting in a manner typical for women in her culture. Sexual reassignment surgery (that is, male to female genital surgery) is fairly straightforward for a transgender woman: creating a vagina by inverting the penis. A transgender man, assigned a 'female' identity at birth, might now assert his male identity by male patterns of dress and behaviour. For transgender male SRS (female to male genital surgery), creating a penis is more complicated, involving more than one surgery and is usually performed over a period of time. Both transgender sexes may also seek other medical and surgical solutions, such as taking hormones (e.g. oestrogen or testosterone), having breast implants, modification or removal, and SRS.



It's our talents, our skills, and our abilities that matter – not our gender. Our gender does not determine our potentials.²⁰

Winter (2012), p. 38
(a quote from a Filipina trans woman)

Transgender people have greater needs for medical care in addition to basic health care and gender alignment, including sexual and reproductive health and psychosocial needs. However, external factors such as discrimination and poverty make it more difficult to access support services. Formal or informal discrimination by health providers often discourage or directly prevent transgender people from seeking services, especially from affordable public clinics and hospitals. Transgender women are often at high risk of sexually transmitted infections (STI) and globally have HIV infection rates 50 times higher than the adult population.⁵ Unfortunately, no evidence is available in this area regarding transgender men. Importantly, a serious outcome of a life marked by stigma and prejudice is a high level of psychosocial challenges, compounded by the tendency of society to classify transgender people as having a mental illness.⁶ In all areas of medical services, efforts must be made to assure that care is gender-appropriate and provided in ways that are sensitive and non-judgemental.⁷





HIV and transgender people

HIV looms as a serious threat to transgender people worldwide. In Asia and the Pacific, it is widely reported that most new HIV infections will be among men who have sex with men and transgender people by the year 2020.⁸ This threat of HIV has only recently been recognised by policy makers as a major threat to the health and well being of transgender people in the region and an impediment to achieving the 2015 goals and the UNAIDS vision of “Zero new HIV infections. Zero discrimination. Zero AIDS-related deaths.”⁹

Limited studies have been reported regarding HIV surveillance, HIV and STI prevalence, population size estimations, or behaviour patterns for either transgender women or transgender men in the region. The most current data documenting HIV infection rates amongst transgender people only include transgender women in urban settings. Nevertheless, the data shows disturbing infection rates throughout the region: Delhi 49%, Mumbai 42%, Phnom Penh 37%, Jakarta 34%, Surabaya 25%, Bandung 14%, Chaing Mai 18%, Phuket 12%, Bangkok 11%, Lahore 0.5%.¹⁰ These figures are higher than most HIV prevalence rates among MSM in Asia and the Pacific, which are highest in Bangkok at 31.3%.¹¹

The risk factors for HIV in transgender people are varied and complicated, yet little research has been done to understand these factors and guide effective development. Little is known about the interactions of HIV anti-retroviral treatments for those already infected with HIV (PLHIV). Two additional factors exacerbate the situation for transgender PLHIV: unethical disclosure of gender and HIV status, and prejudice in the misperception that transgender behaviour violates cultural norms.¹² What is known in this area, again, is limited to HIV among transgender women, or has been extrapolated from data on MSM PLHIV.

At the global level, the rate of HIV infection among trans women ranges from 16% to 68%.²¹

Only rough estimates are available as to how many transgender people there may be in the Asia Pacific region – perhaps 9 to 9.5 million, based on a somewhat scientific assumption that 0.3% of the total population is likely to be transgender.¹³ Population size estimations are required to understand HIV and other health challenges in any sub-population, and are particularly needed to determine baselines for coverage and effectiveness of HIV interventions and services.



Stigma and prejudice

Understanding the stigma under which transgender people must live throughout their life is the key to understanding the difficulties they face, including their risk to HIV. Stigma refers to a perception that a person is somehow less worthy than others, deeply defective or even less human. This leads to prejudice against the transgender person, and unfavourable and unfounded stereotyping in general. This might start with mild teasing about gender identity, often at an early age, and later escalates to vicious insults that can instigate assault, physical violence, sexual abuse, and even murder. The typical experience of a transgender person is to be singled out negatively as being different, from the moment they first begin to express their true gender identity.


“ I did go for several interviews, but I always got the same ... ‘Transsexuals can’t do office work.’ ... I have the qualification [but] for the employer, I’m only qualified to work at a beauty salon despite the fact that I have a degree in management. ”

25 year old transgender woman,
Malaysia

Stigma against transgender people is prevalent across the region. It rests on a number of incorrect beliefs: that they are unnatural or a deviation of nature, mentally disturbed or ill, sexually deviant and promiscuous, deceitful and dishonest, and generally immoral (e.g. against the will of God or the law). These images can come from cultural views or religious traditions, and at other times from modernising forces. Foremost is the false belief that a transgender woman or transgender man is actually only the gender as assigned at birth; that is, that a transgender woman is “really just a man”, and a transgender man is “really just a woman”.¹⁴

These false beliefs establish, for transgender people, what one researcher refers to as the “stigma-sickness slope”.¹⁵ Stigma breeds prejudice and grants approval to discriminate. This approval allows harassment and abuse and may even lead to violence and murder. Over the past five years, in this region alone, 109 transgender people in 19 countries were murdered.¹⁶ Stigma also leads to marginalisation at economic and legal levels of society, also affecting the families of young transgender women and transgender men.

Economic marginalisation allows extreme prejudice in education, personal development and employment that might otherwise lead to improved social status. Crucially for transgender people, employment opportunities are often hampered simply due to gender orientation, this disadvantage extends throughout the employment cycle from getting, maintaining and advancing in a job. Discrimination and abuse in educational settings is commonplace, so few have attained adequate education or job training, thus leaving them to be regarded as fit only for low-paying work in places like beauty salons, hospitality services or markets. Poverty is often a result also.





Stigma and prejudice

(continued)

Lack of adequate income makes needed medical care for gender transitioning difficult, leading to sub-standard procedures performed by untrained clinicians or sometimes by friends. Even affordable healthcare is often not possible, including at public health facilities, due to prejudicial policies and insensitive staff with little or no knowledge of transgender health or lifestyle challenges.

Pushing people to the margins of society leaves them vulnerable to risky situations. Transgender people may feel the need settle for romantic partners who may be abusive, or lead them to practice unsafe behaviour, such as illicit drug use or unsafe anal, vaginal or neo-vaginal sex. As well, extreme poverty may leave the transgender person with no choice but to seek work exchanging sex for money or necessities, thereby leaving them at dramatically increased risk for HIV infection, other STIs and violence. All of these situations unfortunately serve to reinforce the stigma that allows or gives tacit approval to prejudices and poor treatment of transgender people.



“If you ask me (if I) am ...happy to be like this, I would say I am not happy to be like this. But I am happy despite the fact that I am like this, I have done many thing for other people and society. Moreover, I have not yet failed to be truc to myself. ”

68 years old transgender woman,
Cambodia



Dr Sam Winter (left) author of 'Lost in Transition: Transgender people, rights and HIV vulnerability in the Asia-Pacific region' with a member of APTN, Laxmi Narayan Tripathi (right).





At the hands of the law: legal marginalization

The legal environments in much of the region further marginalise transgender people when they should provide legal protection or redress for violations of personal and property rights. Worse, in many places laws and legal processes often are used against transgender people, as summarised below:

Area of violation	Remedy and redress
<p>Legal identity and sexual alignment: Denial of basic identity, (one's gender), and not recognised as a legal persons, such as changing gender status on identification papers like voter ID, passports and birth certificates. When change to gender is allowed, proof that the person has undergone complete SRS is often required, which should always be at a person's own choice not a requirement.</p>	<ul style="list-style-type: none"> • Repeal laws that criminalise transgender identity, sexual alignment procedures, or associated behaviours like cross-dressing. • Legally recognize transgender identity and allow for changes to identification and other documents as needed. • Set up educational campaigns to help educate the general public on transgender people and their rights.
<p>Violence: Violence often tolerated or condoned by the state, even at the hands of police.</p>	<ul style="list-style-type: none"> • Legally prohibit discrimination. • Set legal and administrative procedures that help police understand their job: protecting all citizens equally, including transgender people.
<p>Classification of transgender sexual behaviour as "same sex": Use of sodomy laws against transgender people.</p>	<ul style="list-style-type: none"> • Repeal sodomy or other laws that outlaw consensual adult sexual relations. • Legally recognise correct gender status.
<p>Lack of support organisations: Not allowing community organisations to legally exist or register, or not aiding those that do exist.</p>	<ul style="list-style-type: none"> • Remove legal or regulatory barriers for community organisations by and for transgender people. • Provide opportunities and support for organisational development, including individual capacity skills building.
<p>Anti-loitering/anti-sex work laws: Police often assume all trans women are sex workers and use laws for vagrancy, loitering and sex work against them. Possession of condoms is even used as proof of sex work, particularly when found on a transgender person.</p>	<ul style="list-style-type: none"> • Repeal such legislation, if it exists. • Harmonise police procedures to public health policies like those that encourage condom use. • Sensitise police and others to the issues and rights of transgender people.
<p>Workforce discrimination: Refusing to hire, promote, or properly pay people because they are transgender.</p>	<ul style="list-style-type: none"> • Formally recognize that fair labour practises apply equally to all citizens, including for transgender people.
<p>Lack of gender-sensitivity in institutions: No clear and sensitive policies about use of public toilets, facilities (like university dorms or gyms), or prisons and places of detention.</p>	<ul style="list-style-type: none"> • With the participation of transgender people and community-based organisations, establish coherent and sensitive policies.



Basic rights and the duty to protect everyone

“Transphobia is a health risk,” declared J.V.R.Prasada Rao, the UN Secretary-General’s Special Envoy for AIDS in Asia and in the Pacific last year.¹⁷ The United Nations has in fact been increasing its demands for member states to remove laws and legal practices that marginalize transgender people, as well as others such as MSM, sex workers and drug users. Recent work, like that of the HIV and the Law Commission, have strived to help governments understand that discrimination related to gender identity and gender expression are bad public health and are in violation of basic individual rights as those declared in international treaties and conventions.

INTERNATIONAL TREATIES

Universal Declaration of Human Rights

International Covenant on Civil and Political Rights (ICCPR)

- Convention Against Torture
- Convention on the Rights of the Child
- Convention on the Elimination of Discrimination Against Women
- Convention on the Rights of Persons with Disabilities

International Covenant on Economic, Social and Cultural Rights (ICESCR)

“Governments have a legal duty to protect everyone,” Ban Ki Moon, UN Secretary-General, said in a message at the 2013 Oslo Conference on Human Rights, Sexual Orientation and Gender Identity. He continued, “Some will oppose change. They may invoke culture, tradition or religion to defend the status quo. ... I respect culture, tradition and religion – but they can never justify the denial of basic rights.” He concluded, “My promise to the lesbian, gay, bisexual and transgender members of the human family is this: I am with you. I promise that as Secretary-General of the United Nations, I will denounce attacks against you, and I will keep pressing leaders for progress.”¹⁸

NATIONAL DECISIONS/ PROCESSES

European Court of Human Rights (interpreting Article 14)

Supreme Court of Canada, Section 15 of the Canadian Charter of Rights and Freedoms (1995)

High Court of Delhi (2009 reading down Section 377)


SEE ALSO

Yogyakarta Principles (Application of International Human Rights Law in relation to Sexual Orientation and Gender Identities (SOGI))

The Global Fund Strategy in relation to SOGI



APTN members, Joe Wong (left) and Prempreeda Pramroj Na Ayutthaya (right).



What's next? Recommendations for the near future

1. Research to acquire basic information on Asia and the Pacific transgender communities.

The more we know, the better we can act. It is clear that we do not know enough about transgender people in the Asia Pacific region, and virtually no information about transgender men or transgender lives in rural settings. Relevant organisations, with involvement of transgender persons and experts, must set new research agendas, starting with population size, ethnic makeup, travel patterns, along with basic behavioural data. These agendas must then be fully funded and implemented.

2. Research the impact of HIV on Asia and the Pacific transgender communities.

At present, information about the HIV epidemic for these communities is vague, often anecdotal, and entirely focused on urban transgender women. In addition to the need for general demographic information, a clear picture must be obtained about the size of the HIV epidemic in these communities, and the nature of HIV and other health risks facing transgender people. Of particular interest is the resilience of transgender persons to better understand “the positive factors and personal qualities” that have allowed these people to thrive in the presence of extreme stigma and discrimination.¹⁹

3. Support the development of transgender people and their organisations.

CBO and peer networks within countries should be supported through individual capacity building of leadership, work and management skills, whilst helping communities build sustainable and responsive organisations, by and for transgender people. Regional networks such as APTN and APCOM need support too, along with trainings to help existing local NGOs better understand and meet these needs. No one is more likely to understand the key issues affecting transgender people than transgender people themselves; therefore, giving a central role to transgender organisations in all efforts to address the HIV epidemic is required. Advocacy is needed at all levels – community, national, regional, international – is essential as well.

““

I can take the name-calling when it is directed towards myself. What I find more difficult and painful is when other people, especially those I love, are supposedly shamed because of me. ””

33 year old transgender woman,
Philippines





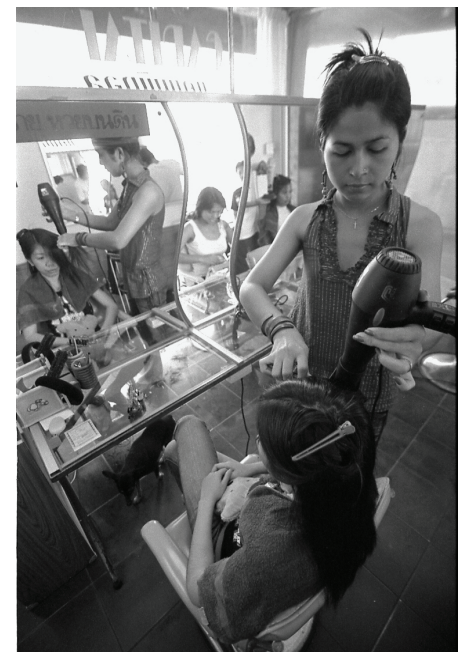
What's next? Recommendations for the near future (continued)

4. Sensitizing and training all those involved in access to public health care systems.

This includes public and private health medical personnel, from doctors to nurses to receptionists, but must also include government officials and the police. Even under the planning and coordination of the World Health Organization, such trainings will only be effective by involving local transgender people and their organisations in the planning, presentation, evaluation and follow up activities. Without appropriate and gender-sensitive health care systems, transgender people will continue to be discouraged and unable to seek life-saving help for HIV and other health issues.

Finally, as declared by the Consultation on HIV, STI and other Health Needs of Transgender People in Asia and the Pacific, held in Manila in late 2012:

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



Transgender women's lives in Pattaya, Thailand





REFERENCES:

- ¹ WHO (2012), *Regional assessment of HIV, STI and other health needs of transgender people in Asia and the Pacific*.
- ² Winter S, *Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region*, UNDP (2012)
- ³ *Ibid.*, p. 8
- ⁴ The term cross-dressing applies to people who purposely dress as the gender opposite to their own identity; however, transgender people are dressing appropriately when wearing clothes of their self-identified gender role.
- ⁵ Baral, SD. *Worldwide burden of HIV in transgender women: a systematic review and meta-analysis*. The Lancet Infectious Diseases 1 March 2013 (Volume 13 Issue 3 Pages 214-222 DOI: 10.1016/S1473-3099(12)70315-8)
- ⁶ Winter, S. (2009), Cultural Considerations for the World Professional Association for Transgender Health Standards of Care: the Asian Perspective. *International Journal of Transgenderism*, 11, 19-14.
- ⁷ *Ibid.*, p. 33
- ⁸ Baral, SD. *Worldwide burden of HIV in transgender women: a systematic review and meta-analysis*. The Lancet Infectious Diseases 1 March 2013 (Volume 13 Issue 3 Pages 214-222 DOI: 10.1016/S1473-3099(12)70315-8), p. 214
- ⁹ UNAIDS Website, <http://www.unaids.org/en/aboutunaids/unaidstrategygoalsby2015/>
- ¹⁰ van Griensven F et al, *HIV surveillance and prevention in transgender women*, The Lancet Infectious Diseases 1 March 2013 (Volume 13 Issue 3 Pages 185-186 DOI: 10.1016/S1473-3099(12)70326-2)
- ¹¹ Cassell, M, *An end to AIDS? Opportunities to translate evidence to action* (Presentation, January 2013), USAID Regional Development Mission for Asia
- ¹² Choo M, *Treatment Access for Positive MSM in the Asia Pacific*, APN+ (2010). pp. 21-22
- ¹³ Winter S, *Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region*, UNDP (2012), p. 9 (based on UN Population Division figures for Asia and Oceania)
- ¹⁴ *Ibid.*, pp. 13-15
- ¹⁵ *Ibid.*, p. 13 and forward elaborates the concept of stigma-sickness slope.
- ¹⁶ TvT research project (2013) "Trans Murder Monitoring results: TMM MARCH 2013 Update," TvT website: <http://www.transrespect-transphobia.org/en/tvt-project/tmm-results/march-2013.htm>
- ¹⁷ Rao, JVR, *Findings & Recommendations: Criminalisation on basis of drug use, sex work, sexual orientation & gender identify* (Presentation, Washington, DC, 2012), Global Commission on HIV and the Law.
- ¹⁸ UN Website, <http://www.un.org/apps/news/story.asp?NewsID=44660&Cr=discrimination&Cr1=>
- ¹⁹ Winter S, *Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region*, UNDP (2012), p. 41
- ²⁰ *Ibid.*, p. 38
- ²¹ Baral, SD. *Worldwide burden of HIV in transgender women: a systematic review and meta-analysis*. The Lancet Infectious Diseases 1 March 2013 (Volume 13 Issue 3 Pages 214-222 DOI: 10.1016/S1473-3099(12)70315-8), p.214



Participants at 2012 WHO consultation, Manila, Philippines





**Australian Federation
of AIDS Organisations**

This publication was produced by APCOM in partnership with APTN.

The development of this publication was supported through the Australian Aid Program (AusAID) and the Australian Federation of AIDS Organisations (AFAO).

The views expressed in this publication do not necessarily reflect those of the Australian Aid Program (AusAID) or the Australian Federation of AIDS Organisations (AFAO).

Quotations used through out this publication were reproduced from *Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia Pacific Region*. UNDP 2012

© APCOM 2013 Readers are free to share and copy this content, provided APCOM and originating author(s) are acknowledged.

Photo Credit (Cover): Ordinary lives - extraordinary people/
APCOM's Photo Exhibition: ICAAP10

Equity. Dignity. Social Justice.



We are united in our courage to advocate issues that affect the lives of men who have sex with men and transgender people, including HIV, rights, health and well being.

apcom.org

ASIA PACIFIC COALITION ON **MALE SEXUAL HEALTH**

APCOM Secretariat | Unit 201, 51/2 Ruamrudee III Building,
Soi Ruamrudee, Ploenchit Road | Bangkok 10330 | Thailand

+66 2 255 4410 | apcom@apcom.org | www.facebook.com/apcom.org