



CONCEPT NOTE

REGIONAL CONSULTATION ON PROMOTING AND PROTECTING THE RIGHTS OF LESBIANS, BISEXUAL WOMEN, TRANSGENDER AND INTERSEX PERSONS IN SOUTHEAST ASIA

29th February – 1st March 2016
Dusit Thani Hotel, Bangkok

Background

Guided by the fundamental principles of universality, equality and non-discrimination, Article 1 of the Universal Declaration of Human Rights reaffirms that all human beings are entitled to enjoy their rights, freedoms, and all other civil, political, economic, social and cultural rights without distinction of any kind. Other international treaties mutually reinforce human rights of all persons and their entitlements to live a life free from fear and discrimination. But people who choose not to follow the prevalent sexual and gender norms regularly experience discrimination related to housing, social security, employment, and are at increased risk of violence and abuse. States are obligated to exercise due diligence and take necessary measures to protect, prevent, investigate, punish and redress acts of violence, (direct and indirect) discrimination against all people, including on grounds of sexual orientation and gender identity (SOGI). However, in many countries around the world as well as in the region of South East Asia, states do not provide adequate protection and redress for abuses and discrimination faced by lesbian, gay, bisexual, transgender, intersex persons (LGBTI). Additionally, at least 18 countries out of 38 in Asia Pacific region criminalize same sex relationships, which leads to wide-spread human rights abuses, mental and physical violence, social exclusion and discrimination at home, at school, in the workplace and in the media¹. These have deep consequences on the lives of LGBTI persons including increased risk to HIV. Some of these countries also have rigorously enforced religious laws that criminalize same sex relationships and gender non-conformity (e.g., cross dressing). These laws, which are often viewed as “morality laws” have overlapping harmful impact on women in general in these countries as they severely penalize all consensual relationships outside marriage (i.e., pre-marital, extra marital, and same sex).

Vibrant LGBTI movements exist in South East Asia and progress has been made to provide increased legal protection in some countries. For example, in the Philippines, there is now protection against discrimination on the grounds of sexual orientation including in the form of provincial level policies. However implementation needs to be improved.*² In Viet Nam, same-sex marriage was removed from forbidden forms of marriage in the Law and Marriage and Family revised in 2014. In Thailand and Vietnam, there have been progress made in recognition of transgender persons in various legal provisions. However, despite such progress, LGBTI persons are criminalized in a number of countries including given death penalty and are deprived of legal protection under national laws. Furthermore, deeply rooted traditional heterosexual gender norms, values and gender stereotypes perpetuate stigma and discrimination against LGBTI populations.

UN Women is implementing the Regional Programme on Improving Women’s Human Rights in Southeast Asia (CEDAW SEA Phase II) supported by Global Affairs Canada, covering eight countries namely Cambodia, Indonesia, Lao PDR, Myanmar, Philippines, Thailand, Timor-Leste and Viet Nam. The programme focuses on enhancing the implementation and monitoring of the principles of CEDAW at national level and women’s access to justice through awareness raising and capacity development of government branches (executive, legislative and judiciary), as well

¹ See http://www.aidsdatahub.org/sites/default/files/presentation_document/IGM2015-Regl-Overview-2015.pdf

² While noting the gender continuum, and that gay men face similar marginalization and rights violations as Lesbian and Bi-sexual Women, Transgender and Intersex persons, based on UN Women’s mandate, the meeting will focus on Lesbian Women, Bi-sexual, Transgender and Intersex women.

as of civil society organizations. While ensuring women have access to justice, failure to consider and address gender differences in laws and in the implementation of laws may perpetuate gender inequality. Cultural factors, manifestations of extremist ideologies, lack of awareness of rights and legal remedies, lack of awareness of rights among justice actors and economic resources impede women from getting legal protection or remedies from formal justice mechanisms. Sexual orientation is a blind spot for many state institutions and NHRIs. One example of how this blindness operates is when laws that prohibit domestic violence and family violence cannot be accessed by women in same sex relationships even when these laws are applicable to women in de facto/ non-marital relationships. Definitions of rape are also so narrow that they do not acknowledge or redress rape committed against lesbians, bisexual women, transgender and intersex persons.

Through CEDAW SEAP, UN Women advocates and supports legislative change and national law/policies review to ensure CEDAW compliance; build national expertise/network on CEDAW; promote knowledge generation, dissemination and South-South exchanges to achieve the following outcomes of the programme:

- Increased skills and knowledge of government officials and civil society gender experts on CEDAW compliance in development and monitoring new and revised legislative frameworks;
- Increased awareness among formal and informal justice system actors of CEDAW commitments;
- Strengthened monitoring and accountability mechanisms for implementation of CEDAW commitments.

An important reference for UN Women's work to strengthen LGBTI rights is the September 2015 joint call to action on ending violence and discrimination against lesbian, gay, bisexual, transgender and intersex persons by 12 UN agencies including UN Women. Discrimination because of real or perceived sexual orientation and non-conforming gender identify and gender expression intersect and overlap with other forms of discrimination that women face and are intrinsically linked to broader issues of gender equality, women's rights and empowerment. In several countries, UN Women has started working on these intersecting issues and promoting and protecting the LGBTI rights through its work. For example, in Cambodia, UN Women partnered with Open Institute, women from LGBT communities, and women living with HIV to develop a position paper on ending discrimination against these groups in all spheres of life. This paper was disseminated to duty bearers nationwide and presented to lawmakers at the national and ASEAN levels. Thirty-six (36) media stories that promoted public understanding of the rights of women/girls with HIV and LGBT people were also widely disseminated. Changes in public attitudes on gender have been reported by listeners of a radio drama on non-discrimination that was launched by NGO-CEDAW, Radio Sarika and the Voice of Democracy with funding support from UN Women. At the regional level, UN Women supports a regional campaign called *Unzip the Lips*, a campaign -for and by- key HIV affected women and girls (female sex workers, women living with HIV, female drug users, migrant women and transgender persons) to foster a common platform for galvanizing advocacy efforts and facilitate their participation in important regional and international human rights processes and events including in 2014 at the Beijing Plus 20+ review meeting to position the rights and issues facing transgender persons and other women from marginalized communities. UN Women would like to build on these activities and identify strategic opportunity and entry points for mainstreaming issues and concerns of lesbians, bisexual women, transgender and intersex persons into its programmatic and normative work, taking into account the Beijing Platform for Action and other agreed commitments including the SDGs.

The Regional Consultation recognizes and builds on the work in advancing the rights and the well-being of LGBTI people, reducing inequality based on sexual orientation and gender identity and supporting inclusive development in the region including UNDP, Being LGBT in Asia Initiative, UN Free and Equal Campaign for Lesbian, Gay, Bisexual and Transgender Equality, etc.

In partnership with OutRight Action International, and in collaboration with UNDP and UNAIDS, UN Women Regional Office for Asia and the Pacific, is organizing a two-day regional consultation on promoting and protecting the rights of lesbians, bisexual women, transgender and intersex persons.

The Key Objectives of the consultation are:

- Providing an overview of human rights standards and norms protecting rights of lesbians, bisexual women, transgender and intersex persons;
- Identifying key issues and barriers facing LGBTI persons in SEA including issues related to discrimination, rights violations, lack of access to justice and redress,, as well as culture and social marginalization;
- Discuss the role of and explore opportunities for strengthening partnerships with national human rights institutions, ASEAN bodies, community/religious leaders, law enforcement officials, UN Women and other relevant stakeholders in protecting the human rights of LGBTI persons and ending stigma and discrimination on grounds of sexual orientation, gender identity and gender expression;
- Facilitate learning and sharing of good practices in the region on addressing, protecting and promoting human rights of LGBTI persons;
- Identify key programming areas including next steps for strengthening inclusion of LGBTI issues in UN Women's programs in the region.

Expected Result(s)

- Gained common understanding of the key issues and existing challenges of stigma and discrimination faced by lesbian, bisexual women, transgender and intersex persons in the context of achieving gender equality and women's empowerment
- Developed new and strengthened existing partnerships in the region to promote and protect the rights of LGBTI persons
- Identified key programming areas including next steps for strengthening inclusion of LGBTI issues in UN Women's programs in the region

Participants

Representatives of UN agencies, lesbian, bisexual, intersex and transgender activists, NHRIs, law enforcement authorities, religious/faith-based leaders, NHRIs, LGBTI Networks, representatives of ASEAN Human Rights bodies, key resource persons