THAILAND

Joint UPR Submission to the UN Universal Periodic Review

39th Session of the UPR Working Group

The Rights of People Living with HIV (PLHIV) &People Who Inject Drugs (PWID) in Thailand

Submitted on 25 March 2021

Submission by:

Health and Opportunity Network (HON) is a dedicated care and support organisation for transgender individuals living with HIV and AIDS in Pattaya, Thailand, which started its work in 2008. HON's main objective is to provide advice and counselling on health-related issues including training personnel and production of health promotion materials. HON provides holistic HIV care and support services for transgender people living with HIV and AIDS including clinical, psychosocial, social, and preventive services.

Manushya Foundation is a women-led and innovative non-profit organization with the goal to reinforce the power of local communities, in particular women human rights defenders, so they can advance their human rights and fight for equality and social justice. Manushya means "Human Being" in Sanskrit; it was founded in 2017 to engage, mobilise and empower local communities across Asia to be at the center of decisions and policies that affect them.

The International Drug Policy Consortium (IDPC) is a global network of 192 NGOs that focus on issues related to drug production, trafficking and use. IDPC promotes objective and open debate on the effectiveness, direction and content of drug policies at the national and international level, and supports evidence-based policies that are effective at reducing drug-related harm.

Thai Positive Women Foundation is an organisation that aims to study and research the current problems faced by women living with HIV, and to communicate and educate the Thai public to change their discriminatory attitude towards women living with HIV. It analyses policy gaps related to women living with HIV and promotes gender equality and human rights. Thai Positive Women Foundation empowers women living with HIV by encouraging them to have a meaningful participation in society and take on leadership positions.

Tamtang is a human rights feminist group giving all women in Thailand (and Thai women outside Thailand) access to non-biased information needed about access to safe abortion. Tamtang advocates for the right to safe abortion in Thailand, where despite abortion being legal under certain conditions, many procedures are still taking place 'underground' due to stigma, lack of information and provider refusal. Since 2011 Tamtang has offered information about safe abortion and reproductive health on its website and free counselling hotline/messaging service.

Citation: Health and Opportunity Network (HON), Thai Positive Women Network, Manushya Foundation, Tamtang Group and the International Drug Policy Consortium (IDPC), Joint UPR Submission: The Rights of People Living with HIV and People Who Inject Drugs in Thailand, for the UN Universal Periodic Review of Thailand (3rd UPR Cycle), 39th Session of the UPR Working Group, March 2021

For more information on this publication please contact:

HON Lead: Thissadee Sawangying

Email: thissadee.hon@gmail.com

Tel: +66-(0) 9244 69243

Web: www.facebook.com/hon.house

1. Introduction

1.1 In this submission, IDPC, HON, Manushya Foundation and the Thai Positive Women Network examine the Government of Thailand's compliance with the recommendations received during the 2nd UPR cycle of Thailand, particularly in relation to the protection of human rights of People Living with HIV (PLHIV) and People Who Inject Drugs (PWID). In this context, we analyse the efforts made by the Government to implement recommendations received related to the provision of PLHIV and PWID's access to healthcare and social welfare, to prevent discrimination, to abolish death penalty, and to raise the criminal responsibility age.

1.2 During the 2nd UPR cycle, the Government of Thailand received only one recommendation specifically addressing drug use and HIV, namely to "reinforce the harm reduction of measures targeting drug users in order to avoid adverse health effects, including increased HIV infections and hepatitis." However, it received a total of 54 recommendations related to protection of the rights of PLHIV and PWID, and, of which the Government supported 47 and noted seven. Our assessment demonstrates that the Government partially implemented five recommendations, and persistently failed to implement 49 recommendations since its last UPR.

1.3 We are deeply concerned with the lack of protection provided to PLHIV and PWID in Thailand. Despite the country's efforts to stop the HIV pandemic, such as through HIV education campaigns, and universalisation and integration of HIV services, PLHIV and PWID continue to face severe human rights violations due to their HIV-positive status. PWID face even harsher conditions because Thailand's approach to drug use is highly punitive: individuals caught using or selling drugs face detention and even death penalty, and are denied access to essential healthcare.

1.4 This submission indicates that Thailand does not have sufficient legislation in place to prevent discrimination and stereotyping against PLHIV and PWID, and to ensure that they have access to public services and effective remedy, which results in violations of human rights in the following manner:

- Section 2 discusses the lack of legal framework in place to protect PLHIV and PWID.
- Section 3 discusses the stigmatisation and discrimination PLHIV and PWID are subjected to.
- Section 4 discusses discrimination faced by PLHIV and PWID in all stages of employment.

- Section 5 discusses barriers faced by HIV-positive students to accessing education and sex education in schools.

- Section 6 discusses barriers faced by PLHIV and PWID to accessing healthcare services.

- Section 7 includes a set of recommendations to advance the implementation of UPR recommendations received during the 2nd UPR cycle as discussed in this submission.

Section 2. Lack of legal framework in place to protect PLHIV and PWID

2.1 During its 2nd UPR cycle, the Thai government did not receive any recommendation addressing the lack of legal protection for PLHIV and PWID. However, as evidenced below, this issue deserves attention, as PLHIV and PWID face severe human rights violations. PWID face even more challenges under Thailand's current legal framework, as Thailand has a punitive approach towards drug use. Noticeably, as of 2018, 539 people were on death row, out of which 60 percent were related to drug offences.[1] Meanwhile, the criminal responsibility age is 7 years old, meaning that children can face harsh punishment for drug offences. In June 2020, the amendment of Article of the Criminal Code, raising the criminal responsibility age to 12 years old, has approved by the Cabinet and is still pending to date.[2]

2.2 Even though Thailand counted 470,000 PLHIV in 2019,[3] the country does not have any legislation in place specifically protecting PLHIV and PWID, nor does it have any comprehensive and all-inclusive anti-discrimination law. Only in Section 27 of the Constitution of Thailand of 2017,[4] discrimination on grounds of health condition is prohibited, and in Sections 47 and 55, people's right to healthcare is guaranteed. However, this is insufficient to ensure the protection of rights of PLHIV and PWID, as evidenced in the following sections.

2.3 PWID face even more challenges due to the legal framework, as Thailand takes a tough stance on drugs and even launched a "war on drugs" in 2003,[5] which caused that PWID are heavily stereotyped and perceived as criminals. Therefore, it is doubtful that dependence on drugs qualifies as a 'health condition' under Section 27 of the Constitution of Thailand of 2017.

2.4 Instead of being protected under Thailand's legal framework, PWID face severe stigmatisation due to Thailand's punitive approach towards drugs and legislation regulating drugs, defining PWID as criminals rather than as patients. Such legislation includes the Psychotropic Substances Act, 1975,[6] the Narcotics Act Control, 1976,[7] and the Narcotics Act, 1979.[8] Under these Acts, consumption, possession, disposal,

and possession for the purposes of disposal, production, import and export of drugs are punishable by imprisonment and/or fines, while death penalty may also be imposed in some cases.

2.5 The Narcotics Act B.E. 2522, 1979,[9] amended by Narcotics Act B.E. 2545 (2002), has been used to mask the extra-judicial killings. An instance to prove it is the event of the 17th of March 2017, when two military officers killed Chaiyaphum Pasae, an indigenous human rights defender, in Chiang Mai Province. The military officers claimed that they found drugs in Chaiyaphum's car and had to shoot Chaiyaphum with a M16 in his arm as they sustained that Chaiyaphum resisted the search and attempted to throw a grenade at them. An inquest hearing on June 2018, states the circumstances of Chaiyaphum's death that the military officers used an M16 assault rifle to shoot bullets through Chaiyaphum's left arm, entering the left side of his body and hitting the aorta, heart and lungs, causing his death. The court ruled that the military shot Chaiyaphum in self-defence, therefore the Royal Thai Army is not liable to pay damages to Chaiyaphum's family. Nevertheless, such issues like the CCTV recording of the incident going missing and the inspection of the crime scene not complying with legal procedures, give rise to serious doubts about the legality of military officers' behaviour and the findings of the court.[10]

2.6 Due to disproportionate penalties and sentencing under the 1979 Narcotics Act, over-incarceration becomes a serious issue in Thailand. Thailand's prisons are amongst the world's most overcrowded, with about three people in prison for each available space. The statistics show that over 80% of people in prison are incarcerated for drug offences.[11] The high rate and volume of incarceration is due to disproportionate penalties and sentencing under the country's drug law, for instance the imposition of low threshold amounts of drugs deemed to be in a person's possession (375mg of a pure substance) by which the presumption of intent to sell applies. In addition, under the Narcotics Act, Thailand retains the death penalty for drugs, which is in contravention of international human rights law.

2.7 The Narcotics Addict Rehabilitation Act, 2002,[12] provides alternatives to incarceration for some drug offences to divert people charged with drug consumption into treatment programmes. However, while the latter provides a framework whereby PWID are patients, not criminals, the consumption and possession of drugs remain illegal and punishable under other acts. In addition, there are no statutory provisions providing legal grounding for harm reduction services or treating people dependent on drugs as patients. Whether the accused should have its case diverted or prosecuted is determined by a court. However, there are no clear criteria, and a significant proportion of people arrested for drug consumption are imprisoned instead of diverted.

2.8 The Narcotics Addict Rehabilitation Act, 2002, provides also for arbitrary detention in the form of compulsory drug rehabilitation. It is carried out in state-run facilities, generally known as 'compulsory drug detention centres' (CDDCs), which represent a major driver of arbitrary deprivation of liberty in the context of drug policies.[13] In this light, The UN Working Group on Arbitrary Detention has previously found that detention in CDDCs is not supported by the international drug control conventions, and it is in contravention of international human rights law.[14] In 2012 and again in June 2020, twelve UN bodies, including the UNODC, WHO, UNAIDS, and OHCHR, called for their immediate closure.[15] However, the number of people detained in these centres increased in recent years in Thailand, until 2020 when there appeared to be a significant drop in numbers: from 132,124 people in 2019 to 78,195 people in 2020.[16]

2.9 Due to restrictive laws and discriminatory practices based on moral judgement, superstition, ancient beliefs, fear and misinformation, PWID are punished instead of protected, preventing them from accessing lifesaving treatment and prevention and heightening their risk of contracting HIV. Besides, the majority of drug treatment options in Thailand do not comply with medical standards: beyond counselling delivered through the therapeutic community model, treatment programmes include religious therapy, vocational training, relapse prevention, electronic monitoring, and restorative justice—often through means of coercion and detention. What is generally referred to as 'voluntary treatment' is not by far voluntary, as it highlights elements of coercion, for instance in situations when clients can be 'volunteered' by family members without their consent. The anti-drug policies led to human rights violations, discrimination, stigma, and overcrowded prisons with people being convicted mostly for minor offences, and, in addition, significant abuses have been perpetrated in the name of drug dependence treatment such as denial of medication, shackling of patients to prevent escape, etc.[17] PWID are negatively perceived: they are rejected socially as many people lack understanding of drug use, and believe that PWID threaten the security of their communities. Drug users are monitored, arrested, threatened, and their phones are taken and investigated.[18]

2.10 Women living with HIV are particularly suffering from the lack of legal framework. Given the fact that the transmission rate among women is lower than among men and the lack of gender-sensitive data, the government pays less attention to women and girls' transmission. Policymakers focus only on the rate of infection per key population groups and do not apply a gender lens to this issue, even though the distinction between the different categories of women is crucial to understand and prevent the transmission rate. Because of the lack of interest by the government, the foundation helping Women with HIV never received a budget from the government to support activities for the prevention of HIV among women and girls or to collect data on the situation of women living with HIV or domestic

violence against them. The government continuously ignores civil society on this matter. As an example, the Thai Positive Women foundation has never been invited in the monitoring and evaluation of the PMTCT since Thailand received validation from the WHO for having eliminated mother-to-child transmission of HIV and syphilis in 2016.

Section 3. PLHIV and PWID are subject to stigmatisation and discrimination

3.1 During its 2nd UPR cycle, Thailand did not receive any recommendation specifically addressing discrimination faced by PLHIV and PWID. However, it received 9 recommendations regarding the prevention of discrimination, particularly against women, of which it supported 8, and noted one. However, as evidenced below, the Government failed to implement any of these recommendations.

3.2 PLHIV are often rejected by Thai society, even by their own families, due to discrimination and negative stereotypes which are based on Thai people's belief that HIV results from 'dangerous' behaviours, such as promiscuity and drug use. Accordingly, in 2017, the 5th Thai National Health Examination Survey was published, measuring people's perception towards PLHIV. The study concluded that among 10,522 respondents, 76.9 percent was hesitant to take an HIV test, fearing people's reaction if it would turn out positive; 69.2 percent living with, or thought to be living with HIV, feared losing respect; 57 percent feared contracting HIV if they would come in contact with PLHIV; 38.2 percent would be ashamed if someone in their family had HIV; 52.1 percent would feel disgusted to buy food from a shopkeeper who is HIV positive, and 23.7 percent believed that HIV positive children should not be in the same classroom with 'other' children.[19] This demonstrates that due to stigma and discrimination against PLHIV, they experience exclusion, delayed access to healthcare, missed medication due to fear of disclosing HIV-positive status, social isolation, depression, and limited employment opportunities.

3.3 PLHIV are also discriminated against in public institutions. For instance, they are discriminated against by the Cremation Association, who refuses their membership based on their HIV positive status. The Association requests a health certificate, no older than 30 days, issued by a doctor of a government hospital. Being denied a membership, PLHIV are also denied the benefits provided by the association.

3.4 PWID are also subject to stigmatisation and are rejected by Thai society. Transwomen Who Use Drugs (TWUD) are especially vulnerable and marginalised as they faced an intersectional layer of stigma and discrimination. Due to their gender identity and the misconception of drug users, they are discriminated against in daily life and even viewed as criminals. With a sense of insecurity and unworthiness, TWUD are often unwilling to speak out their concerns or seek help from others in face of human rights violations, such as harassment from law enforcement.[20]

Section 4. PLHIV are discriminated against in all stages of employment

4.1 During the 2nd UPR cycle, Thailand did not receive any recommendation with respect to the discrimination of PLHIV in employment. This is problematic, because PLHIV continue to face persistent discrimination in all aspects of employment: during the recruitment process, as well as in the workplace, which is evidenced below.

4.2 Although Section 27 of the Constitution prohibits discrimination on the basis of health condition, laws regulating labour fail to protect PLHIV, who continue to face persistent discrimination in all aspects of employment, notably due to the lack of anti-discrimination provisions in national legislation. Section 15 of the Labour Protection Act provides that employers shall provide equal treatment to men and women workers,[21] however, it does not mention any other population groups, such as PLHIV or PWID.[22] Only in Article 5.6.1 of the Thai Labour Standards on Corporate Social Responsibility in Thai businesses,[23] developed by the Ministry of Labour, it is provided that "discrimination in respect of employment, payment of wage and remuneration, providing welfare and opportunity for training and development, promotion, termination of employment or retirement, and so on, due to HIV/AIDS (among others) is prohibited.[24] However, as these are voluntary guidelines for businesses, they do not guarantee the protection of PLHIV.

4.3 Although Thailand committed to have at least 50 percent of companies establishing HIV/AIDS friendly policies by 2003, many employers committed only informally and failed to actually implement the policies.[25] Businesses fear that employed PLHIV will incur greater operational costs, and due to a lack of knowledge regarding HIV, they are also concerned about the safety of their customers and employees. Interviews conducted with human resources professionals of companies listed on the Stock Exchange of Thailand showed that 48.3 percent would not hire PLHIV based on their HIV positive status.[26] PLHIV are subject to unconsented HIV screenings during the recruitment process and throughout their employment, their HIV positive status is disclosed, and their employment is terminated. A representative case is that of a 29-year-old technical engineering graduate who was forced to resign after undergoing a mandatory blood test revealing that he was HIV positive.

4.4 People whose parents are HIV positive are often scared to get blood tests, considering that they might miss out on employment opportunities. A concrete example in this case is the Bank for Agriculture and Agricultural Cooperatives which conducts blood tests for HIV, without informing people about it, and rejects them if they test positive.[27]

Section 5. HIV positive students face barriers to accessing education and sex education in schools

5.1 During its 2nd UPR cycle, Thailand did not receive any recommendation to ensure that sex education is sufficiently provided in schools or that HIV positive students have access to education. However, it received seven recommendations, calling upon the Government to ensure all children have access to education, which it all supported. However, as evidenced below, the Government failed to ensure that HIV positive students have access to education, and has not implemented the recommendations.

5.2 Although Thailand ratified the Convention on the Rights of the Child (CRC), and General Comment No. 3, which provides the right to non-discrimination, particularly on the basis of HIV/AIDS, HIV positive children in Thailand still experience barriers while accessing education, as schools may reject students who are HIV positive. In this way, they infringe upon their right to education. For instance, On 28 August 2012, three students living with HIV from the Nursing Sciences, Christian University, in Nakhon Pathom province, filed complaints with the National Human Rights Commission of Thailand (NHRCT) after the university rejected them claiming that the school had to prevent the risk of HIV transmission to its patients.[28]

5.3 Sex education is considered a taboo in Thai society, and if such programmes are provided, it is done in a very conservative way. Consequently, youth is not well informed, and unsafe sexual practices are encouraged. This contributes to an increase in HIV and other sexually transmittable diseases among youth.[29]

Section 6. Barriers faced by PLHIV and PWID to accessing healthcare services

6.1 During its 2nd UPR cycle, Thailand received eight recommendations related to vulnerable groups' access to healthcare services. However, none of them refers specifically to PLHIV and PWID. Problematically, despite the fact that PLHIV and PWID require essential healthcare services, they face severe barriers accessing these, as they are being discriminated against, and lack knowledge on healthcare services available to them. During the outbreak of Covid-19, PLHIV had even less access to essential healthcare services they require, as evidenced below.

6.2 Thailand made efforts to improve its response to AIDS by integrating HIV services into its Universal Health Coverage Scheme, including antiretroviral therapy which can now be accessed for free and is offered to PLHIV immediately after they are diagnosed with HIV.[30] However, PHLIV and PWID experience strong and persistent stigma and discrimination when accessing healthcare services. Facing stigma and discrimination, key populations at high risk of transmitting HIV, including Men who have Sex with Men (MSM), PWID, sex workers, and transgender people, have avoided using healthcare services, and have been refused healthcare due to their HIV status.[31] Another reason why PLHIV and PWID are unable to use healthcare facilities is because they lack information about available services, as well as about the risks of HIV. Many hospitals lack the appropriate resources to provide patients with HIV-treatment and testing. Moreover, State agencies provide inadequate funding and support for HIV/AIDS education programmes in schools and for medical personnel, which causes and contributes to discrimination against PLHIV.

6.3 Even though treatment for HIV is offered free of charge, PWID are not eligible. However, some doctors provide treatment to people who promise to stop using drugs immediately.[32] Among PWID, it was found that those who were refused medical care were more likely to avoid healthcare services. Factors preventing PWID from accessing services include misconceptions, such as that the distribution of needles would promote drug addiction, as well as stigma and discrimination by public health service providers and law enforcement officials. Criminalisation of drug use is also an issue, as PWID fear arrest or detention if they would access healthcare services and HIV treatment.

6.4 In 2017, PLHIV and key populations reported that they faced discrimination by healthcare workers in all healthcare settings, while one in three reported to avoid healthcare facilities as a result of this.[33] Resulting from stigma and discrimination faced at healthcare facilities, eight percent of sex workers, five percent of MSM, and six percent of transgender persons have claimed to avoid healthcare services. In addition, 20 percent reported that in the last 12 months they were refused healthcare services due to their HIV-positive status. These can also act as a deterrent for them, diminishing their willingness to seek medical services.[34]

6.5 Even though the Thai Government provides free HIV tests twice a year, many people are unaware of this. Additionally, as the government's prevention programmes have not reached populations and other vulnerable groups sufficiently, they are unaware of their risks, and where they can get tested. As part of Thailand's national Prevention of mother-to-child transmission of HIV (PMTCT) program, routine HIV counselling and testing for all pregnant women and their partners takes place. However, women are unaware of their right to reject the testing. Problematically, women are often pressured to disclose their

blood test results to partners. Moreover, this program tends to protect the baby than pregnant women from HIV transmission, proved by the stable HIV prevalence among pregnant women which remained 0.5% since 1991. The practice of coerced sterilisation for people living with HIV is used in Thailand. While the Division of AIDS and STI conducted a survey on the clients living with HIV in the healthcare setting in 2014/2015, only one question on this matter was included, asking health care providers if they have ever advised (or) coerced their patients to use sterilization or choose abortion in the past 12 months. The results showed that an increasing number of respondents answered yes between 2017 (2.1%) and 2019 (2.19%). Nevertheless, the exact number of women who suffered from this practice remained unknown. This practice violates fundamental human rights and may even be considered as torture, as stipulated in the 2013 report of the UN Special Rapporteur on torture.[35]

6.6 Women living with HIV are particularly discriminated against in their access to health care services. They suffer from a lack of information especially regarding pregnancy. They face more obstacles when seeking safe abortion services and struggle to find information whereas it seems necessary due to their health condition. When seeking counsel from health care providers they are only advised to take ARV treatment to protect the baby from HIV infection rather than information on safe abortion due to the pro-life attitude. This situation is even worse for women who use drugs. Because of their status of PWID and the stigma, they generally refuse to go to an ANC clinic because they could be blamed for using drugs. Their situation is particularly difficult as they generally got pregnant unintentionally, and they need to be counselled and accompanied. Although they can choose either to continue their pregnancy under harm reduction treatment or abortion, they have no knowledge and never receive such counselling, especially because of the negative attitude from health care providers against them as well as the exclusion of harm reduction and pregnancy in ANC guidelines. Unregistered migrant women workers are also discriminated against as they receive ARV treatment from PMTCT program for free during pregnancy but they need to pay after giving birth to their children. However, there is not enough information on the length of ARV treatment for themselves and their children and if they can receive free powdered milk for 18 months as it is the case for Thai Women living with HIV.

6.7 According to the Department of Disease Control, in 2019, HIV and tuberculosis were the number one cause of deaths among inmates, with almost 6,000 being diagnosed with the diseases. These inmates are afraid to seek help from medical facilities and, on many occasions, they are denied access to essential healthcare services. [36]

6.8 For PWID, harm reduction services are extremely important. Although PWID's need for harm reduction is increasingly acknowledged, the Government's punitive approach and legislation undermines PWIDs' access to it.[37] Their access is further undermined because resources are directed

towards law enforcement and compulsory treatment of PWID rather than towards harm reduction, and because people hold conflicting views regarding harm reduction. For instance, many health providers believe that Needle and Syringe Programmes (NSPs), which aim to reduce the risk of HIV transmission, encourage drug use. Harm reduction, such as NSP, is available in Thailand. However, due to limited funding which caused a termination of a partnership with local pharmacists, since 2014 there has been a reduction in the number of NSPs in Thailand. Consequently, in 2016, 24 out of 38 sites were NSP was offered were closed down, and by 2018, only 14 NSP sites were still operating. Also, NSP coverage in Thailand was only 24 syringes per person per year. In 2018, on average, PWID in Thailand received just ten clean needles and syringes, which is fewer than in previous years.

6.9 During the outbreak of COVID-19, PLHIV faced even more challenges to access healthcare services essential to them. To limit the virus spread, the Thai Government enforced the Emergency Decree, partially locking down the country, and the freedom of movement was heavily restricted. Community outreach staff members had to stay home, and, hence, clinics operated at reduced hours, resulting in a decreased number of clients and some health services being prioritised over others. This affected the provision of HIV services, which were not prioritised: only in certain cases, HIV centres allowed clients to visit the clinic to get treatment. In some cases, hospitals directly deliver antiretroviral drugs to patients who do not need to see a doctor. However, many PLHIV have not disclosed their HIV status to their family, relatives, or friends. To avoid being stigmatised, they prefer not to receive medication packages through post or any courier service, fearing that others might find out about their HIV status.[38]

6.10. Due to the pandemic, many people have not been able to undergo HIV testing and have not received preventive services or treatments. A research showed that, during the pandemic, almost half of the sex workers surveyed faced difficulties in accessing screening for sexually transmitted infections.[39]

Section 7. Recommendations to the Thai Government

7.1 Regarding the lack of legal framework in place to protect PLHIV and PWID

a. Take all necessary steps to prohibit any discrimination, in all sectors of society in line with Article 1 and 2 of the UDHR, Articles 2, 3 of the ICESCR and Sections 4 and 27 of the Constitution. Enact a separate and comprehensive national anti-discrimination law, that includes HIV/AIDS status among prohibited grounds, and recognise intersecting forms of discrimination. The government should ensure that this new legal framework takes specifically into consideration women living with HIV.

b. Review the criminalisation of drug offences, to lower sentences by amending the Psychotropic Substances Act, the Narcotics Control Act and the Narcotics Act.

c. Address the extra-judicial killings in accordance with the rule of law to prevent impunity by the conduct of military officers.

d. Conduct a review of the Narcotics Act B.E. 2522 (1979) in accordance with principles of proportionality and the rule of law and ensure that death penalty for all drug-related offence is abolished.

e. End the practice of compulsory drug treatment and rehabilitation programmes, abuses in facilities operating these programmes, and arbitrary detention.

7.2 Regarding the stigmatisation and discrimination PLHIV and PWID are subjected to

a. Disseminate information and raise awareness of HIV, its transmission, and of PLHIV rights, notably by organising educational campaigns and supporting community-led interactions between PLHIV and other community members, in the view of reducing HIV-related stigma and discrimination.

b. Create and establish a data storage system on stigma and discrimination experienced by PLHIV and PWID. Such a mechanism shall prove useful in monitoring improvements in their situation and help design anti-discrimination laws and policies.

7.3 Regarding the discrimination faced by PLHIV and PWID in all stages of employment

a. Ensure no discrimination against or stigmatisation of workers, as provided by Principle 3c of the ILO Recommendation No.200, in particular jobseekers and job applicants, on the grounds of real or perceived HIV status or the fact that they belong to regions of the world or segments of the population perceived to be at greater risk or more vulnerable to HIV infection, including through amendment of Section 15 of the Labour Protection Act to not only forbid sexual discrimination, but also discrimination based on health condition, including HIV/AIDS status.

b. Collaborate with companies, both in the public and private sectors, to raise awareness of PLHIV's rights and push for the adoption of HIV/AIDS friendly policies according to 3e of the General Principles of the ILO Recommendation No.200.

7.4 Regarding barriers faced by HIV positive students to accessing education and sex education in schools

a. Guarantee that all children have equal rights and opportunities to receive basic education, in accordance with Section 28 of the Convention on the Rights of the Child, with Section 10 of the National Education Act, and with Section 54 of the 2017 Constitution and the General Comment No.3 of the UN Committee on the Rights of the Child[40] that mandates states to ensure that children affected by HIV/AIDS can stay in school.

b. Amend sex education programs, in line with Article 16 of the General Comment No.3: HIV/AIDS and the Rights of the Child of the UN Committee on the Rights of the Child, to ensure that they include a gender-sensitive approach to sexual activity and provide youth with accurate and reliable information on safe-sex practices and HIV, including HIV services.

7.5 Regarding barriers faced by PLHIV and PWID to access to healthcare services

a. Recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in line with Sections 47 and 55 of the 2017 Constitution, that guarantee the right to healthcare for all people; Ensure that PWID with HIV who are in prisons or in correction facilities have access to healthcare services, including HIV services.

b. Implement effectively the 2017-2030 National Strategy on AIDS by collaborating with civil society and international partners to ensure that the general population and especially key populations are well-informed about their rights and the HIV services they have access to, notably by raising awareness and organising educational campaigns.

c. Expand PWID's access to detoxification and opioid substitution therapy using methadone, by ensuring that these are available in all hospitals and drug treatment centres, and not merely in district and provincial level-hospitals in accordance with Sections 47 and 55 of the Constitution.

d. Forbid forced sterilisation performed on HIV-positive pregnant women and ensure that no pregnant women is forced to take blood test or to disclose the results to their partners in with the UN Special Rapporteur on torture report to the Human Rights Council from February 2013.

d. Extend social security benefits to all people, especially the most vulnerable, regardless of their employment status according to article 9 of the ICESCR.

e. Adopt a gender-sensitive approach to COVID-19, that account for marginalised and vulnerable communities, including PLHIV and PWID, notably by reinforcing and extending access to health services and social protection schemes.

f. Integrate safe abortion information into HIV counselling; Implement safe abortion services into Antenatal Care or National PTMCT's guideline; Apply harm reduction measures for pregnant women who use drugs; Provide clear guidelines, standards, and benefits such as free ARV treatment, powdered milk to women migrant workers living with HIV.

Endnotes

[1] Harm reduction international, The Death penalty for Drug offences, Global overview 2018, February 2019, available at: http://fileserver.idpc.net/library/HRI_DeathPenaltyReport_2019.pdf
[2] UNICEF, *State Report: Thailand*, available at: https://www.unicef-irc.org/portfolios/documents/446_thailand.htm ; Thaiger, *Thai cabinet endorses raising age of criminal responsibility*, 24 June 2020, available at: https://thethaiger.com/hot-news/crime/thai-cabinet-endorses-raising-age-of-criminal-responsibility ; Bangkok Post, *Age of criminal responsibility to be raised*, 23 June 2020, available at: https://www.bangkokpost.com/thailand/general/1939772/age-of-criminal-responsibility-to-be-raised
[3] Avert, HIV and AIDS in Thailand, available at: https://www.avert.org/professionals/hiv-around-world/asia-pacific/thailand; UNAIDS, Country Factsheet: Thailand 2019, available at: https://www.unaids.org/en/regionscountries/countries/thailand
[4] Constitution of the Kingdom of Thailand, B.E. 2560 (2017), available at: https://cdc.parliament.go.th/draftconstitution2/ewt_dl_link.php?nid=1460&filename=index
[5] Human Rights Watch, *Thailand's war on drugs*, 12 March 2008, available at: https://www.hrw.org/news/2008/03/12/thailands-war-drugs
[6] Psychotropic Substances Act, B.E. 2518 (1975), available at: http://thailaws.com/law/t_laws/tlaw0390.pdf
[7] Narcotics Control Act, B.E. 2519 (1976), available at: https://www.oncb.go.th/PublishingImages/Pages/NARCOTICS_LAW/NARCOTICS_CONTROL_ACT.pdf
[8] Narcotics Act, B.E. 2522 (1979), available at: https://www.fda.moph.go.th/sites/Narcotics/en/Shared%20Documents/Narcotics-Act-B.E.2522.pdf
[9] Narcotics Act, B.E. 2522 (1979), available at: https://www.fda.moph.go.th/sites/Narcotics/en/Shared%20Documents/Narcotics-Act-B.E.2522.pdf
[10] Protection International, Impunity remains as court dismisses the extrajudicial killing of the young HRD, 27 October 2020, available at: https://prachatai.com/english/node/8880
[11] Thailand Institute of Justice, Research on the Causes of Recidivism in Thailand, March 2021, page 6, available at: https://knowledge.tijthailand.org/en/publication/detail/research-on-the-causes-of-recidivism-in-thailand#book/7
[12] Narcotics Addict Rehabilitation Act, B.E. 2545 (2002), available at: http://thailaws.com/law/t_laws/tlaw0149_2.pdf
[13] International Drug Policy Consortium, *On arbitrary detention in drug policies – Submission to the UN Working Group on Arbitrary Detention*, July 2020, available at: https://idpc.net/publications/2020/07/on-arbitrary-detention-in-drug-policies-submission-to-the-un-working-group-on-arbitrary-detention?setlang=en
[14] UN Working Group on Arbitrary Detention (2015), *Report of the Working Group on Arbitrary Detention*, UN Doc. A/HRC/30/36, para. 60, available at: https://www.refworld.org/pdfid/55f7d5844.pdf
[15] International Labour Organisation et al. (2020), *Joint statement on compulsory drug detention and rehabilitation centres in Asia and the Pacific in the context of COVID-19*, available at: https://unaidsapnew.files.wordpress.com/2020/05/unjointstatement1june2020.pdf
[16] National Narcotics Treatment and Rehabilitation Data System, available at: https://antidrugnew.moph.go.th/ONCBReports/ViewerPage.aspx?%2fONCB+Reports%2f44&rs:Command=Render&rc:Parameters=false&startDate=2018-01-01&endDate=2018-12-31&section:IsNull=True&province:IsNull=True&b

order:IsNull=True&organizeid:IsNull=True&Ministry:IsNull=True&Department:IsNull=True

[17] Tanguay, P. and Ngamee, V., *Drug dependence treatment in Thailand: Progress against persistent concerns*, International Drug Policy Consortium Briefing Paper, March 2018, available at: https://idpc.net/publications/2018/03/drug-dependence-treatment-in-thailand-progress-against-persistent-concerns?setlang=en

[18] This information was obtained from civil society during a CERD and UPR workshop organised by Manushya Foundation in November 2020.

[19] Kriengkrai Srithanaviboonchai, Stigmatisation attitudes towards people living with HV among general adult Thai population, *Plos One,* 2017, available at: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5690635/

[20] This information was obtained from Trans and Drugs Use Workshop conducted by HON on July 30-31, 2020, in Pattaya, Thailand: Basic Knowledge on Drug & Harm Reduction Program

[21] The Labour Protection Act, B.E. 2541 (1998), available at: https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/49727/125954/F-1924487677/THA49727%20Eng.pdf

[22] ILO, Labour Protection Act B.E. 2541, available at: https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/49727/125954/F-1924487677/THA49727%20Eng.pdf

[23] Thai Labour Standards: Corporate Social Responsibility of Thai Businesses, TLS 8001-2010, available at: https://www.magnecomp.tdk.com/Document/TH_Labor/Thai_Labor_Standard.pdf

[24] Thai Labour Standards, CSR of Thai businesses TLS 8001-2019, available at: https://www.magnecomp.tdk.com/Document/TH_Labor/Thai_Labor_Standard.pdf

[25] KHN Morning Briefing, HIV positive employees still face discrimination in Thai business sector, Nation reports, available at: https://khn.org/morning-breakout/dr00024591/

[26] UNAIDS, Thailand ending aids, 2015, available at: https://www.unaids.org/sites/default/files/country/documents/THA_narrative_report_2015.pdf

[27] Community input from groups working on issues related to PLHIV in Pattani.

[28] ILO Country Office for Thailand, Cambodia and Lao People's Democratic Republic, Gender Identity and Sexual Orientation in Thailand, 2014, p. 82, available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_356950.pdf

[29] Community input from groups working on issues related to PLHIV and sexual health in Pattani and Chiang Mai.

[30] UNAIDS, Lessons from Thailand: integrating HIV services into national health schemes, 1 February 2016, available at: https://www.unaids.org/en/resources/presscentre/featurestories/2016/february/20160201_Thailand

[31] Avert, HIV and AIDS in Thailand, available at: https://www.avert.org/professionals/hiv-around-world/asia-pacific/thailand; UNAIDS, Country Factsheet: Thailand 2019, available at: https://www.unaids.org/en/regionscountries/countries/thailand

[32] UNODC, Ending an epidemic, available at: https://www.unodc.org/documents/commissions/CND/2019/Contributions/Civil_Society/2018_IAS_Brief_Ending_an_epidemic_HCV_treatment_for_PWID.pdf

[33] Avert, HIV and AIDS in Thailand, available at: https://www.avert.org/professionals/hiv-around-world/asia-pacific/thailand; UNAIDS, Country Factsheet: Thailand 2019, available at: https://www.unaids.org/en/regionscountries/countries/thailand

[34] Avert, HIV and AIDS in Thailand, available at: https://www.avert.org/professionals/hiv-around-world/asia-pacific/thailand; UNAIDS, Country Factsheet: Thailand 2019, available at: https://www.unaids.org/en/regionscountries/countries/thailand

[35] Source of the information not found in the report.

[36] Bangkok Post, 6k inmates infected with HIV/Aids, TB, 1 May 2019, available at: https://www.bangkokpost.com/thailand/general/1669828/6k-inmates-infected-with-hiv-aids-tb

[37] International Drug Policy Consortium, Drug control and harm reduction in Thailand, November 2013, available at: http://fileserver.idpc.net/library/IDPC-briefing-paper-Thailand-drug-policy-English.pdf

[38] Apcom, Virtual Powwow with Thai LGBTQI and HIV community on the effects of COVID-19, 8 May 2020, available at: https://www.apcom.org/virtual-powwow-with-thai-lgbtqi-and-hiv-community-on-the-effects-of-covid-19/

[39] Surang Janyam, Dusita Phuengsamran, Jamrong Pangnongyang, Wutikan Saripra, Ladda Jitwattanapataya, Chalidaporn Songsamphan, Patchara Benjarattanaporn and Deyer Gopinath,
Protecting sex workers in Thailand during the COVID-19 pandemic: opportunities to build back better, September 2020, p. 101, available at: https://apps.who.int/iris/bitstream/handle/10665/334191/seajph2020v9n2p100-eng.pdf?sequence=1&isAllowed=y

[40] UN Committee on the Rights of the Child (CRC), General comment No. 3 (2003): HIV/AIDS and the Rights of the Child, 17 March 2003, CRC/GC/2003/3, Article 18, available at: https://www.refworld.org/docid/4538834e15.html