

Workshop on Rights and Laws for Men of Diverse Sexualities and Transgenders in PNG

Workshop manual 2014

This manual is to assist in the delivery of a workshop on rights and laws for men with diverse sexualities (MDS) and transgenders (TG) in PNG. It is based on a workshop delivered 28-30 October 2014 for MDS and TG in Lae. This workshop was presented by Kapul Champions, PNG Development Law Association (PNG DLA) and Tingim Laip, with support from UNAIDS in PNG and the Australian Federation of AIDS Organisations (AFAO). The 2014 workshop was an adaptation of a workshop conducted in Port Moresby in 2012. The 2012 workshop was presented by the International Development Law Organization, APMGlobal Health, UNAIDS, AFAO and Igat Hope.

Ownership of this workshop model is shared by Kapul Champions, PNG DLA and Tingim Laip. Permission to use this model or any part of the model will be granted at no cost where it is for the benefit of MDS and TG in PNG.

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The manual includes a copy of the program delivered in 2014 and then a description of each session. Descriptions take different formats depending on the session, and because session descriptions have been written by different presenters. But as a general rule each session is described using the following kinds of headings: learning outcomes, reasons for the session, session content, session methodology and materials, and session outcomes.

Many sessions are to be delivered with PowerPoint slides or supported by other resources. These slides and other resources have been collected and are available from Kapul Champions, PNG DLA or Tingim Laip. A list of these presentations and resources is included as Attachment A.

These workshops are necessarily organic. They must follow the interests and capacities of participants, and future workshops will probably not follow this exact format. Throughout this manual there are occasional references to the work done by participants of the 2014 workshop and some examples of this work have been included. They are included as examples only. Participants of future workshops may produce very different work.

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Program

| Session name and time | What will be covered? | Format |
|---|--|--|
| DAY 1 | | |
| Introductions (8.30–9.30) | <ul style="list-style-type: none"> • Welcome • Who's who? • Workshop goals • Ground rules • Confidentiality, taking notes, photographs and reporting on the workshop • Welcome from DLA, Tingim Laip, UNAIDS, AFAO | Facilitated plenary |
| Morning tea (9.30-10) | | |
| Rights (10 – 12) | <ul style="list-style-type: none"> • What is a right? • Where do rights come from? • What rights do MSM and TG have in PNG? • Right to health • Link between rights and laws | <ul style="list-style-type: none"> • Facilitated discussion • Consideration of UDHR and PNG Constitution • Case study |
| Lunch (12-1) | | |
| Experiences of MSM and TG in PNG (1-2.30) | <ul style="list-style-type: none"> • Are the human and constitutional rights of MSM and TG in PNG respected? • Are MSM and TG disadvantaged in PNG? | <ul style="list-style-type: none"> • Facilitated small groups • Report back |
| Afternoon tea (2.30-3) | | |
| Research - MSM and TG rights and health (3-3.15) | Introduction to UNAIDS/IMR/Kapul Champions research | Brief presentation |
| Laws in PNG (3.15-4.45) | <ul style="list-style-type: none"> • Laws about homosexuality • Laws about transgenders • Laws about sex work • Laws about HIV • Other relevant laws: blackmail, intentional transmission | Facilitated discussion |
| DAY 2 | | |
| Revisiting rights and laws (8.30-10) | <ul style="list-style-type: none"> • Reflect on previous day's content • Clarify with participants what they have learned and what is unclear • Reinforce messages from previous day • Q&A | <ul style="list-style-type: none"> • Facilitated discussion • Participants line up along a continuum to show level of understanding • Participants asked to answer questions to indicate level of learning • Q&A: participants write questions and put them in a box |
| Morning tea (10-10.30) | | |
| HIV testing and treatments (10.30-12) | <ul style="list-style-type: none"> • ARVs, adherence and positive living • HIV testing • Disclosure | <ul style="list-style-type: none"> • Presentations and facilitated conversation • Small group work |
| Lunch (12-1) | | |

| | | |
|--|---|---|
| Formal and informal legal systems in PNG – access to justice mechanisms (1-2.45) | <ul style="list-style-type: none"> • Legal services • PNG Courts and Ombudsman • Human Rights Track • Village courts • Mediation and compensation • Dealing with police • DLA success stories | Presentation and facilitated discussion |
| Afternoon tea (2.45-3.15) | | |
| Formal and informal legal systems cont. (3.15-4.30) | As above | As above |
| DAY 3 | | |
| Taking action in PNG (8.30-10) | <ul style="list-style-type: none"> • Being solutions-focused • Thinking about case studies and applying what we have learned | Small groups |
| Morning tea (10-10.30) | | |
| Law Reform (10.30-12) | <p>Law reform in PNG DLA plans for test case</p> <ul style="list-style-type: none"> • What other things will be needed to change the way MSM and TG treated in PNG • What are the most important things that will reduce S&D for MSM and TG • How can we change people’s minds and attitudes | Presentation and small group work |
| DVD I’m proud of who I am (12-12.30) | DVD presented – considered as information resource and advocacy tool | Plenary DVD presentation |
| Lunch (12.30-1.30) | | |
| Double discrimination (1.30-2) | <ul style="list-style-type: none"> • Are there any links between HIV and MSM, TGs or sex workers? • HIV and ‘blame’ • Public health reasons for law reform | Facilitated discussion |
| Developing a message (2-4) | <p>Working in groups or individually, participants design a resource to change people’s minds. It may be a poster, a sticker or a pamphlet with a simple message.</p> <ul style="list-style-type: none"> • At whom is it targeted? • What is the key message to be delivered? | <ul style="list-style-type: none"> • Small group work • Report back |
| Afternoon tea (4-4.15) | | |
| Evaluation (4.15-4.45) | Formal evaluation | Plenary |
| Close (4.45-5) | Thank you session | Plenary |

Session 1: Introductions

This is a general introductory session. The facilitator welcomes participants to the workshop and participants introduce themselves to the group. At this point some participants may be nervous about being open about their sexuality or transgender status in a group. The facilitator should make clear that participants need only use their first names, and can choose whatever name they want.

Participants share an opening prayer.

The workshop goals are introduced:

- Help MDS and TG understand their rights and the laws that affect them.
- Help MDS and TG to defend and promote their human and legal rights.
- Give MDS and TG the opportunity to talk about issues that are important to them in a safe space.
- Build Kapul Champions' capacity to defend and promote the rights of its members and all MDS and TG across PNG.
- Give interested organisations the chance to hear from MDS and TG about their issues.

Participants are asked to collaboratively set ground rules for the workshop. These are written up on butchers' paper.

The facilitator outlines rules around taking notes and photographs:

- Notes are being taken for use in preparing a workshop report. No names will be used.
- No-one will be photographed without their permission.
- Participants are not to take photos of participants without their permission and no workshop photos are to be uploaded to Facebook.
- Stories will not be recorded without the story-teller's permission.
- For 'sharing' sessions where participants are asked to share stories from their own lives, no notes will be taken.

Session 2 - Rights

What do we want participants to learn?

Through this session participants will:

- ✓ Develop an understanding of what human rights are
- ✓ Understand the origins of modern human rights

- ✓ Appreciate the meaning and significance of the Universal Declaration of Human Rights
- ✓ Appreciate the relationship between rights and responsibilities
- ✓ Understand the forms human rights can take, legally and morally
- ✓ Understand how human rights instruments are applied in Papua New Guinea law and society
- ✓ Analyse the relationship of human rights to daily life
- ✓ Apply the concepts of human rights to their own lives.

Why do we want participants to learn this?

Human rights are basic to humanity. They apply to all people everywhere. An understanding of human rights is an important part of our individual status as human beings and of our collective status as members of communities. To understand how human rights affect us in our daily lives and to acknowledge our responsibilities in recognising the need to balance those rights with the rights of others, we require an understanding of what human rights are.

So what are human rights? Where did they come from? How do they impact on humanity? How do they affect me?

Methodology and materials required

The following materials are required:

- Butchers paper and marker pens
- RRRT Know your Rights DVD
- Copy of the Tok Pisin version of the Universal Declaration of Human Rights
- 'Identifying Human Rights' sheet
- Copy of the PNG Constitution (or at least the relevant parts).

What content is required to achieve learning objectives?

What are Human Rights?

The facilitator starts with the open question, "What are human rights?" The facilitator writes up any words or answers that participants give.

The facilitator asks the question, "What are some terms that describe what human rights are concerned with?" Answers could include:

- ✓ Dignity, respect
- ✓ Responsibility
- ✓ Values systems
- ✓ Moral and legal rights
- ✓ Justice, tolerance, equality

- ✓ Interaction between people and their community.

There is no universally agreed definition of human rights. One definition is:

“Every person is entitled to certain rights—simply by the fact that they are a human being. They are “rights” because they are things you are allowed to be, to do or to have. They are also there to help us get along with each other and live in peace.”

The facilitator asks the question, “Where do human rights come from?” Answers may include:

- i. Philosophies put forward by thinkers of the ancient world (e.g., Plato, Marcus Aurelius, Cicero, St. Augustine etc.)
- ii. Religious principles from a range of world religions
- iii. Political struggles, such as the French Revolution, the American Civil War, women’s suffrage, and the collapse of apartheid system in South Africa.
- iv. The atrocities and violations of human rights that occurred during World War II galvanised worldwide opinion and made human rights a universal concern. During World War II millions of soldiers and civilians were killed or maimed and entire populations were persecuted. As the war drew to a close, the victorious powers decided to establish a world organisation that would prevent further conflict and help build a better world. This new organisation was the United Nations, known as the UN, which came into existence in 1945. The purposes of the UN were essentially fourfold: to ensure peace and security; to promote economic development; to promote the development of international law; and to ensure the observance of human rights.
- v. Early focus was on civil and political rights (e.g. freedom from torture, freedom of speech, no imprisonment without trial). Since expanded to include economic, social and cultural rights (e.g. right to health, education etc.)

Show the DVD “Know your Rights” – 15 mins

Following the DVD, the facilitator provides a Tok Pisin version of the Universal Declaration of Human Rights. Ask participants to read through. Ask again, “What are Human Rights”? Compare any differences in answers from before the DVD to after the DVD.

Human Rights in Papua New Guinea

The Government of Papua New Guinea has the responsibility for ensuring PNG’s observance of internationally recognised human rights. It is the Government of Papua New Guinea that decides whether or not to take on obligations to observe international human rights standards. But the fact that the Government agrees to observe international standards does not make those standards legally enforceable within PNG. This requires specific PNG legislation. Without such legislation there is no legal way within the PNG court system to ensure that the rights in any

international human rights treaty will take precedence over any national legislation that is inconsistent with the treaty.

In PNG the Constitution adapts international human rights principles to the PNG context.

The facilitator provides participants with copies of the relevant sections of the PNG Constitution. In the constitution there are a total of sixteen basic rights. Not all rights apply to everyone equally. Rights are divided into three categories: fundamental rights, qualified rights, and special rights for citizens.

Basic rights - all persons in our country are entitled... whatever their race, tribe, places of origin, political opinion, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the legitimate public interest.

Fundamental rights – A small number of rights are fundamental rights. This means they can never be limited or restricted in any way. There are no circumstances where limitation or restriction of these rights could be justified.

Qualified rights - rights that may be restricted by law on certain grounds, such as to protect the rights of others or wider public interest. Restriction of a qualified right must be lawful, for a legitimate aim, and necessary. The constitution provides details of the circumstances under which qualified rights can be restricted.

Special Rights – only apply to Papua New Guinea citizens e.g. right to vote.

Ask the participants to identify the rights listed in the PNG Constitution and separate them into basic rights, fundamental rights, qualified rights & special rights.

Compare the Universal Declaration of Human Rights to the rights granted under Papua New Guinea's Constitution.

Provide a list of Rights from the Universal Declaration of Human Rights and ask participants to identify which ones are included in PNG's Constitution.
See Attachment C.

Should Education be a right? There is no legally enforceable right to education in PNG. The second National Goal provides for all citizens to have an equal opportunity to participate in, and benefit from, the development of PNG in fulfilment of his or her real needs and aspirations. Education is a key factor in making this goal a reality. Clearly the Government sees education as important – it has introduced free primary schooling.

Should Health be a right? As with education, there is no right of access to health in PNG. The National Goals and Directive Principles declare that every person should be able to develop as a whole person through improvements in national nutrition and

by achieving a standard of public health that will enable people to attain self-fulfilment. This appears to place an obligation on the Government to ensure the provision of health services as a minimum pre-condition to good health. The Government clearly sees health as an important issue hence the introduction of free primary health care.

Where do gender identity, same sex relationships and transgendered individuals fit within the Universal declaration of Human Rights?

Unfortunately no international human rights document explicitly mentions sexual orientation or gender identity. In theory, general human rights documents protecting the rights of all should also protect the rights of sexual minorities.

Section 55 of the constitution states that “Subject to this Constitution, all citizens have the same rights, privileges, obligations and duties irrespective of race, tribe, place of origin, political opinion, colour, creed, religion or sex”.

Ask participants to think about some examples, where their rights under the Universal Declaration of Human Rights or under the PNG Constitution have and have not been respected.

If they are having trouble thinking of examples the following can be used to stimulate discussion.

- Laws that define marriage as only between a man and a woman.
- A man is kicked out of the army because he admits he is homosexual.
- School textbooks on health and reproduction exclusively refer to relationships between a man and a woman.
- The police keep a file of men they suspect are homosexual.
- A MDS is fired when his boss learns about his sexual orientation.
- Students at the university form a gay-straight alliance.

Session 3 – Experiences of MDS and TG in PNG

What do we want participants to learn?

This session is aimed at creating a safe space for MDS and TG to talk about their lives. The previous session attempted to explain the rights that MDS and TG possess, but this session gives the people the chance to talk about whether the rights they have in theory are respected in practice. It is not so much a learning session as it is a sharing session, although participants will obviously learn from each other.

It may be that participants learn that their own experiences are similar to the experiences of other participants. Participants are also likely to learn about different strategies that have been used by MDS and TG to manage stigma and discrimination.

Why do we want participants to learn this?

It is important that participants experience the peer support benefits of the workshop. The workshop is not just about presenters sharing information with participants. It is also about participants learning from each other.

Methodology and required materials

This session is conducted in small groups, with each group being led by an experienced facilitator who will, to the extent possible, be a peer (i.e. Papua New Guinean and an MDS or TG). Groups can be conducted in the language of comfort for members of the group.

The session should be introduced so that participants are reminded about the workshop rules regarding confidentiality. Participants are told that discussions within the group will not be recorded and that **notes will not be taken** by facilitators or anyone else. The emphasis is on creating a safe space where participants can share their own experiences. Group facilitators may report back on the sorts of issues that arose within the group, but no person will have his or her story disclosed.

Session 4 – Research

This session may or may not be repeated in future years. It was delivered in 2014 because the PNG Institute of Medical Research (IMR) was engaged in the conduct or planning of research directly relevant to Kapul Champions' constituency. IMR presented on this research and answered participants' questions about the work of IMR and its plans for the future.

Session 5 – Laws in PNG

What do we want participants to learn?

Participants will develop an understanding of:

- Laws relating to MDS and TG
- Laws relating to sex work
- Laws relevant to HIV/AIDS, including in relation to international transmission of HIV

- Laws relating to blackmail
- How to use laws to enforce their rights
- Laws relating to working with organisations that promote gay/transgender and sex worker rights.

Why do we want participants to learn this?

MDS and TG face significant legal challenges in PNG. It is very important that they understand what laws apply to them. This is not the same thing as accepting these laws. Many of these laws need to be changed. But if MDS and TG are to navigate the legal system in PNG and to protect their rights and safety, they will benefit from understanding what the relevant laws say.

Content

MDS

Section 210 Criminal Code – Unnatural Offences. This makes it an offence to sexually penetrate or be penetrated by another “against the order of nature” (i.e. anal sex). Maximum penalty 14 years in prison.

Section 212 – Indecent Practices Between Males. This makes it an offence for a male to commit an “act of gross decency” with another male whether in public or private. Maximum penalty is three years in prison.

Sex work

Summary Offences Act Part VII section 55 makes it an offence to live off the earnings of a prostitute. Maximum fine 400K or prison for a year.

HIV/AIDS

The HIV/AIDS Management and Prevention Act discusses the rights and responsibilities of PLHIV. The Act:

- Protects the privacy, liberty and mobility rights of persons infected or affected by HIV/AIDS.
- Prevents mandatory HIV testing.
- Safeguards confidentiality.
- Empowers an affected person to seek redress and penalties from the Courts.
- Allows for suppression of HIV information in any legal proceeding.
- Makes it mandatory to ensure that a person has access to the means of protection from HIV. This places an obligation on the State to provide HIV awareness materials and reasonable means of HIV prevention.
- Prohibits stigma and discrimination against PLHIV e.g. in employment and education.
- Criminalises intentional transmission of HIV under the Criminal Code as ‘bodily harm’.

Blackmail

Section 391 of the criminal Code says that blackmail constitutes an offence of extortion. Maximum penalty is three years in prison.

Constitutional protections

Section 37 says every person has the right to full protection of the law. People charged with an offence have the right to be presumed innocent until proven guilty.

Section 55(1) says all citizens have the same rights, privileges, obligations and duties irrespective of race, tribe, place of origin, political opinion, colour, creed, religion or sex.

Working with rights-based organisations

There are no laws preventing organisations from fighting for MDS/transgender rights in PNG. The constitution protects rights to freedom, freedom of assembly, freedom of association and freedom of employment.

Methodology and materials required

Presentation with PP slides.

Session 6 – Revisiting rights and laws

This session is both a reflection on the previous day's learning, as well as a chance to reinforce some of information shared on the previous day. It is conducted in recognition of the fact that Day 1 is heavy with new concepts that many participants may have struggled to understand.

An exercise is used to find out how much participants have understood from the day before. They are asked to line up along a continuum from "I understood everything" to "I did not understand anything". The facilitator may choose to ask different people why they positioned themselves where they did.

Participants are then allocated into small groups and work on answering some key questions about rights and laws. This gives participants the opportunity to pool their knowledge in a safe environment, to ask each other questions, and to discuss some of the issues from the day before. Small groups are invited to report back to the broader group. Key questions might include:

- Can you name some rights that you have under the Universal Declaration of Human Rights?
- Can you remember some rights you have been granted under the PNG Constitution?

- What does the PNG law say about homosexuality?
- What does the PNG law say about sex work?
- What kinds of things are covered under the HAMP Act?

The small groups also give participants the chance to agree on some questions for the facilitators. Facilitators join together to respond to these questions. Participants are also invited to submit questions via a question box.

Session 7 – HIV testing and treatments

This session is conducted in acknowledgement that HIV is an important issue for MDS and TG. Many MDS and TG have HIV, and there will be HIV-positive MDS and TG in any workshop. Some will not yet know their status. Some will know they have HIV but will not have disclosed this to anyone. Others may be openly HIV-positive.

In this session participants are introduced to antiretroviral therapy (ART) and learn how to take it properly. This is important not only for PLHIV in the room, but also for those present who will be asked to support their partners, friends and colleagues to take HIV in the proper way.

The session covers some of the challenges that may make taking ART difficult.

The session is introduced using a PP presentation. Key points from the presentation include:

- Adherence involves all aspects of ART: taking all medication, attending all clinic visits, picking up supplies and attending all lab appointments.
- If a person is non-adherent, they risk getting sicker or resistant to ART. The HIV virus will multiply in their body and the virus may become resistant to the drugs.
- Many factors affect adherence including those related to the person and health care providers.
- PLHIV network groups have an important role in supporting their members' adherence to ART.
- It can be helpful to talk to someone who has already been on medication for a long time.

This presentation is followed by a small group work in which groups consider the following questions:

- What are the barriers to HIV testing for MDS and TG?
- What are the barriers to disclosing that you have HIV?

- What are the barriers to accessing ART in PNG?
- What are the barriers to adhering to ART for PLHIV in PNG?

Session 8 – Formal and informal legal systems in PNG – access to justice mechanisms

What do we want participants to learn?

In this session participants will develop an understanding of the PNG legal systems and access to justice mechanisms. These include:

- PNG Courts
- Human Rights Track
- Village Courts
- Mediation and compensation
- Legal services
- Ombudsman
- Dealing with police.

Why is it important for participants to learn this?

Access to justice in PNG can be a real challenge. Lack of knowledge contributes to poor justice outcomes for poor and marginalised groups. To enforce their rights, MDS and TG will need some understanding of the legal system.

What content is required for participants to reach learning objectives?

Participants are introduced to the two legal systems in PNG: the formal legal system and informal legal system.

Formal legal system

Participants are introduced to the court system:

- National Court – can decide any sort of matter, can enforce constitutional rights and freedoms and can review the decisions of lower courts.
- Supreme Court – interprets the constitution, is the final court of appeal from decisions of the National Court.
- District Courts – can deal with civil or criminal cases such as traffic offences, drunkenness, damaging property, stealing, obstructing a member of the Police Force, assault, breach of the peace, fighting, false reports, persons living off the earnings of prostitution etc.

Human Rights Track: the Human Rights Track is a new development of the Judiciary under the Chief Justice wanting to give recognition to the State's duty to protect the human rights of its citizens from any breach by state authorities and others. This track manages and administers all the cases filed to enforce protection of, or redress

a breach of, the human rights of Papua New Guineans. The track is designed to be user-friendly.

Informal legal system

The Village Court system is set up under the Village Courts Act. Village Courts manage local community issues. Village Courts often try to mediate disputes and may order that compensations be paid. A Village Court Magistrate may impose a fine of up to 1,000 kina. Paying compensation does not excuse someone for committing a criminal offence.

Legal services

Participants are introduced to the free services of PNG DLA.

Participants are also advised about the Public Solicitor. The Public Solicitor can provide free legal assistance to people in need who have been charged with an offence.

The Ombudsman Commission oversees the actions of government bodies and can investigate cases of government agency unfairness or discrimination. The Ombudsman Commission can investigate the actions of government agencies or employees at national, provincial or local government level.

The police

A member of the Police Force can stop and question a person if the officer believes that person is committing or about to commit a crime. The police can only take a person to the police station if the person has been arrested, in which case the person must be advised why they are being arrested and on what charge. If a person has been arrested, s/he has the right to communicate with a family member, a friend and or a lawyer in private. The person has a right to be brought before a court at the earliest opportunity and is assumed to be innocent until proven guilty in Court.

Session methodology and materials required

Presentation with slides.

Session 10 - Taking action in PNG

1. What do we want participants to learn? (Learning objectives)

We want participants to learn that problems can be solved. Instead of just focusing on problems, we want participants to see that there are solutions. MSM/TG don't just have to put up with having their rights disregarded – in some cases they can take action.

Participants should learn how to take steps to deal with violations of their rights. In a previous session we will have discussed legal services, PNG Courts (including the Human Rights Track and village courts), the PNG Ombudsman, mediation and compensation and dealing with police. In this session, participants consider some cases studies and work out how they could use these different services or institutions to resolve the problems outlined in the case studies. But participants are also asked to think of other strategies they might use – informal approaches, advocacy, education etc.

2. Why is it important for them to learn it? (Rationale)

It is important that the workshop does not end up reinforcing hopelessness. While it is important to acknowledge that MSM and TG face many problems, participants should leave the workshop knowing that they can use the law, institutions and other stakeholders to fight back against discrimination and the violation of rights. Participants need to understand that there are services and institutions available to assist them. They need to understand the practical steps involved in using these supports.

3. What content is required to reach learning objectives?

Participants will need to have participated in the earlier session: *Formal and informal legal systems in PNG – access to justice mechanisms*. Participants will then be divided into small groups with each group discussing a case study: see below.

4. What method(s) will be used to reach learning objectives?

Small groups will discuss case studies and then report back to the larger group. People will be allocated to groups on a random basis. Each group will have two facilitators, at least one of which will be fluent in Pidgin. Groups will summarise their responses on butchers' paper.

5. What examples and activities will be used?

Group participants will be asked to consider each case study and then answer the following questions:

- What are the rights issues here?
- What are the legal issues here?
- How can be done to make the situation better?

6. How will the examples and activities be sequenced?

- Introduce the exercise and explain process – 5 minutes
- Allocate people into groups and assign facilitators to each group – 5 minutes
- Small group discussions and preparation of butchers paper summaries – one hour

- Report-back - 20 minutes

7. What materials will be required?

- Copies of case studies
- Butchers paper
- Marker pens
- Blu tack

8. How will participant learning be assessed?

To a degree, participant learning will be reflected in the group responses. But there are not really right and wrong answers. The value of this session is in getting participants to discuss in groups what they have covered in previous sessions. We want participants to trial the application of theory to real cases. The goal is that participants see that there may be practical solutions to problems.

The session will be evaluated as part of the overall workshop evaluation.

Case studies to be used:

Case study 1: John's story

John's boss finds a Kapul Champions pamphlet on John's desk. The boss looks in John's bilum and finds a condom. The boss calls John into his office and says:

"We don't want people like you here. Homosexuals spread AIDS and we don't want you here anymore."

The boss refuses to give John back his bilum or the pay that he is owed. He says to John: "If you don't leave I will call the police. The police will know how to deal with you."

- *What are the rights issues here?*
- *What are the legal issues here?*
- *How can be done to make the situation better?*

Case study 2: Peter's story

Mark is married to Sarah. Mark is also having sex with Peter. When Sarah find out she goes to Peter and tells him that he must stop having sex with her husband. She also says that unless Peter gives her some money she will go to the police and tell them Peter is a MSM.

Sarah's brother is a policeman. He comes to Peter's house and arrests him. He takes Peter to the police station where he beats him. He charges Peter with having anal sex.

See below for possible answers (based on 2014 workshop).

John's story

| Rights | Legal issues | Making it better |
|--|---|---|
| Equality of all citizens Property Employment Freedom Equality Entitlements Expression Carry condoms Privacy Personal belongings Defend himself | Calling names Getting legal advice Verbal harassment Stigma and discrimination Denying property Invasion of privacy Accusation Threats Theft Defamation Inhuman treatment Employment Act HAMP Act | DLA Public solicitor BAHA workplace policy Sensitisation of workplace More information Support from other workers and managers Police Human rights track Public Service Commission (for public servants) Office for the Department of Law Kapul Champions |

Peter's story

| Rights | Legal issues | Making it better |
|--|--|---|
| Movement Assembly and association Privacy Protection of the law Inhuman treatments No entry without search warrant Citizenship equality Choice Innocent until proven guilty Liberty of person | S.210 anal sex Bodily harm Blackmail Police code of conduct Abuse Discrimination Inhuman treatment Indecent acts Gross act | Dialogue between parties Sue or complain to police department Public solicitor Respect marital status Legal advice – DLA Police liaison Human Rights Track Blackmail, police brutality, unlawful charge, Ombudsman Commission, UDHR Peer support Mediators – religious, counsellors |

Session 11 – I'm proud of who I am

Presentation of UNAIDS DVD, I'm proud of who I am.

Session 12 – Double discrimination

Introduction

Nineteen of the forty-eight countries in the Asia-Pacific region criminalise male-to-male sex. Most countries in Asia Pacific do not have specific anti-discrimination laws relating to discrimination on the grounds of sexual orientation or transgender status

In addition to violating basic rights, criminalisation legitimises prejudice in society at large and exposes people to hate crimes, police abuse, torture and family violence.

In the 1994 case of *Toonen vs. Australia*, the United Nations Human Rights Committee confirmed that laws criminalising homosexuality violate rights to privacy and non-discrimination in breach of States' legal obligations under the International Covenant on Civil and Political Rights. Where these laws are enforced, they may also lead to violations of the right to freedom from arbitrary arrest and detention.

Criminalisation also has a dire effect on public health, especially on efforts to prevent the spread of HIV. It can, for example, deter some of those most at risk of infection from coming forward for testing and treatment out of fear of being deemed a criminal. It can also endanger those who work to defend the human rights of lesbian, gay, bisexual and transgender (LGBT) people by exposing them to attacks and intimidation.

Criminalisation also fuels discrimination against people who dress or behave in a way that challenges traditional gender norms. There have been many incidents of individuals arrested or attacked based on their clothes.

In these circumstances, MDS & TG may find it difficult to disclose their sexual behaviour to a service provider without risking criminal sanctions. This can hinder provision of vital MDS & TG-appropriate prevention information, testing, treatment, care or support services. Outreach workers providing MDS- & TG-specific HIV prevention information and services may be accused of supporting illegal activities, such as 'promoting homosexuality,' and be subjected to fines, imprisonment, harassment or violence.

Learning outcomes

To get participants to interactively explore the connection between stigma and discrimination and HIV risk. A key part of planning for stigma and discrimination advocacy is to understand how the two connect.

At the end of the exercise participants will be able to understand the specific connection between stigma and discrimination and HIV risk.

Materials Required

- i. Butchers Paper and marker pens
- ii. Chart "How Stigma Affects MDS"
- iii. Chart "Stigma and Discrimination Against People Living With HIV (PLHIV); Causes, Effects and Relationships"
- iv. Case Study: Samuel.

- v. Chart. Linkages between Stigma & Discrimination of MDS and HIV Risk

Exercise

- i. Put up two pieces of butcher paper. Label one 'Stigma experienced by MDS' and the other 'Stigma experienced by people living with HIV'.
- ii. Try to list as many forms of stigma under each column as possible.
- iii. Then compare the two columns.
- iv. Are the kinds of stigma suffered by the two groups very similar?
- v. Which types of stigma appear in both columns?

MDS who are also HIV positive may experience double stigma from others. They are stigmatised for being MDS and also stigmatised for being HIV positive. Without support, this may result in isolation, severe depression and even suicide.

Exercise

Ask participants to imagine the stereotypical Papua New Guinean rugby league player. Can also ask about typical bank worker, typical university student etc. Describe what he looks like and how he might behave. What words are commonly associated with rugby league players?

Words might include, big, strong, fast, handsome, athletic and tough.

Do all rugby league players look and behave like this?

No, probably not. The assumptions we make about people are often wrong. We may judge a group of people on the basis of what society tells us to believe, or based only on limited exposure to the group.

Now imagine a stereotypical MDS or TG. Describe what s/he looks like and how s/he might behave, what words might people who are not MDS or TG use to describe him/her.

Many people perceive MSM & TG to have many diseases and multiple sexual partners. They might think being MDS or TG means you have a mental disorder.

Do all MDS look and behave like this?

No, you can probably find evidence for many different kinds of MDS e.g. some are effeminate, and some are very masculine; some have anal sex, others do not; some are young, others are old; some are in steady relationships, some have multiple partners.

We can conclude that the assumptions we make about people like MDS are often wrong, and we need to be careful not to stereotype them.

Stereotyping means to perceive all members of some group as if they are all identical e.g. to see all MDS & TG as being effeminate, having HIV/AIDS and being responsible for spreading HIV.

Perceived sexual orientation is not the only factor that leads to social discrimination facing MDS and TG.

Aside from their sexual orientation, MDS & TG may be stigmatised on account of additional identities as migrants, sex workers, drug users, or people living with HIV, to name a few examples. This can add additional layers to the discrimination they already face. From a public health standpoint, these multiple stigmas exacerbate the challenges of disclosing risks or health status to sexual partners and health service providers, weakening a person's ability to negotiate safer-sex practices and participate in health promoting behaviours.

Do MSM & TG have greater risk of HIV than other groups?

Research has found that MSM around the world often face relatively high levels of HIV infection.

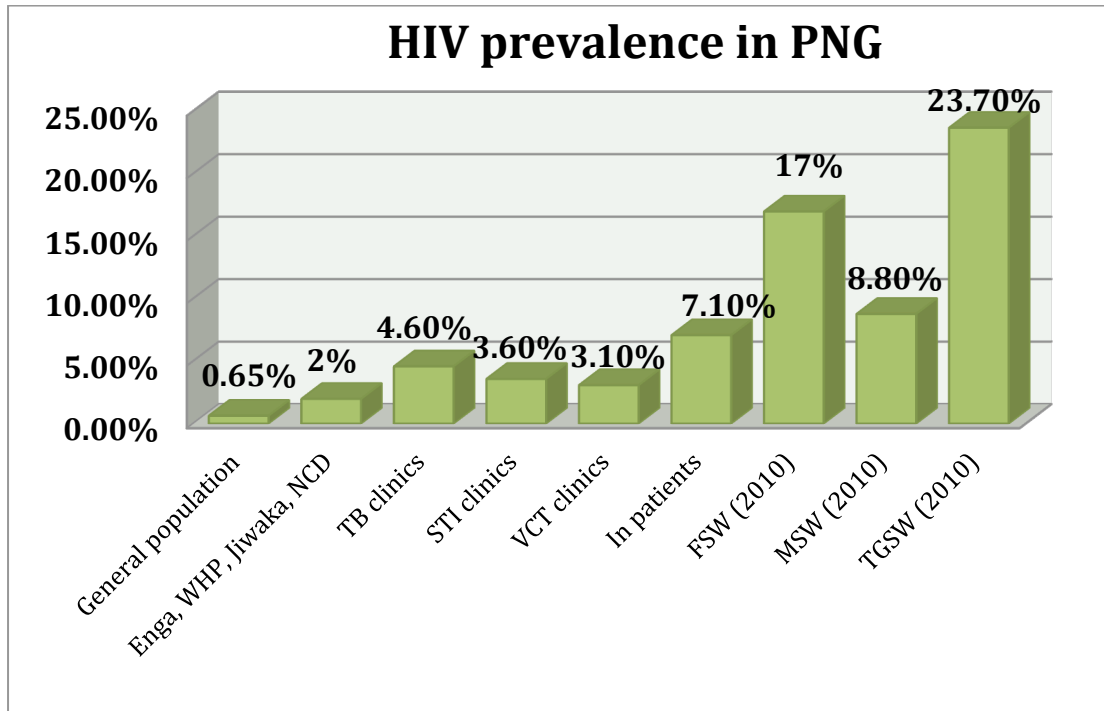
In their 2007 study, *Elevated Risk for HIV Infection among Men Who Have Sex with Men in Low- and Middle-Income Countries 2000–2006: A Systematic Review*, Baral et al found MSM had 19.3 times greater chance of becoming infected with HIV than the general population.

What about PNG? There is currently very little information on HIV & MSM & TG in Papua New Guinea. The one study that has been undertaken so far that measured HIV prevalence in men who sell sex in Port Moresby (Askim na Save, Kelly et al, 2010) reported.

- 17% HIV prevalence in female sex workers
- 8.8% HIV prevalence in male sex workers (some of these men had sex with other men, some of them had sex with women, and some of them had sex with men and women).
- 23% HIV prevalence in transgender sex workers.

How does this compare to HIV prevalence in other population groups?

Explain the graph

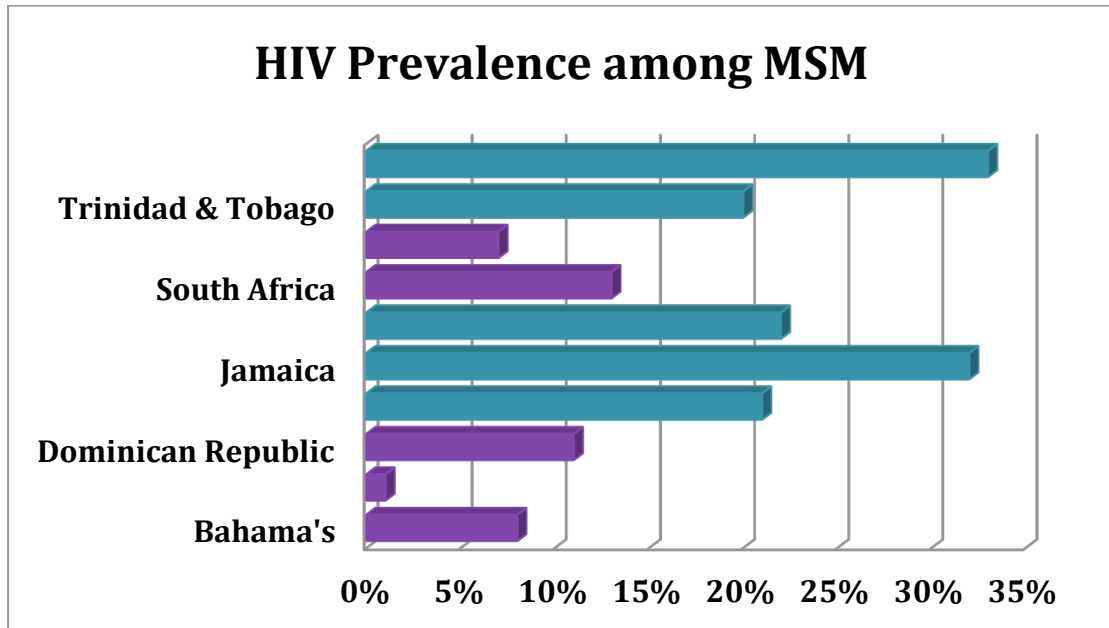


UNAIDS and other international agencies dealing with HIV and AIDS research have found that criminalising same-sex acts can in fact lead to greater HIV prevalence. The report, “Social discrimination against MSM: Implication for HIV policy and programs”, cites statistics from a 2008 UNAIDS study on HIV prevalence among MSM in the Caribbean. According to the report, countries that did not criminalise homosexuality such as Cuba (HIV prevalence rate of two per cent in the MSM population) had a far lower prevalence rate than countries that did criminalise it, such as Jamaica (25 per cent HIV prevalence in the MSM population).

The Global Commission on HIV and the Law: Men Who Have Sex With Men (MSM) reports:

1. Countries that criminalize same-sex sexual activity have higher HIV prevalence rates among MSM than countries that do not.
2. Homophobic laws, state-sanctioned discrimination against MSM, and the absence of legal protections from discrimination put MSM at significantly higher risk of HIV and reduce access to HIV prevention, treatment, care, and support services.

In the chart below the green coloured bars represent HIV prevalence in selected countries that criminalize homosexuality, the purple bars show HIV prevalence among MSM in counties that do not criminalize homosexuality. As the chart illustrates, countries that criminalize homosexuality demonstrate higher rates of HIV among MSM than those that do not. This is a pattern that can be found across regions around the world.



Graph is adapted from the final report of the Global Commission on HIV and the LAW Risks, Rights & Health.

Provide case Study of Samuel.

1. Ask participants to read the story, or have someone read it to them.
2. In small groups, and using the two diagrams in Attachment E discuss the following questions:

Group 1 - Why do you think Samuel is behaving the way he is?

Group 2 – Give some examples of where Samuel has experienced stigma

Group 3 - How does stigma affect disclosure to his partners and his use of health services?

Group 4 - How does MSM stigma result in the continuing spread of HIV?

Group 5 - If we stigmatise MSM, does it stop them from having sex with men? If you answer yes say why. If you answer No, say why.

Samuel

Samuel started to have sex with men when he was a teenager, and managed to hide this from his family. He knew that being MSM was natural for him, but he was worried his family would find out and make his life miserable. Other MSM friends had been discovered|| by their parents and their lives had become hell and he wanted to avoid this.

When he grew older he lived in the same town as his family, but lived on his own. His family suspected he might be MSM, but they didn't bother him until he was 30, when they started to pressure him to get married. He agreed to the marriage to get them off his back.

Soon after getting married, he found out that one of his previous male partners had tested HIV positive, so he started to worry about his own status. What would people think if he was HIV positive? Would they find out that he was MSM? How would he be treated?

He went to the clinic to take an HIV test, but the counsellor made him feel very uncomfortable. He asked lots of questions about Samuel's sex life. When Samuel mentioned having had sex with men, the counsellor said, "No, you are not one of those! You seem different!" Samuel left the clinic without taking the test and told himself he would never go back.

He started to worry about infecting his wife and his new male partner. He insisted on using condoms with his wife, but she got angry and said he must be having an affair. He was so worried about losing his new male partner that he had sex with him without using a condom. He became very depressed and worried about what he would do next.

Session 13 – Developing a message

Working either individually or in groups participants design a resource to change people's minds. Participants are advised that it can be a poster, a pamphlet, a sticker, a t-shirt or whatever they want. Once finished, participants are asked to report back to the group by answering the following questions:

- At whom is the resource targeted?
- What is the key message to be delivered?

Attachment A – List of PowerPoint slides and other resources

Slide presentations

- Human rights
- Laws in PNG
- HIV testing and treatments (ART adherence)
- Formal and informal legal systems in PNG
- Law reform
- Village courts
- Double discrimination

Other resources

- HAMP Act User Guide
- Extracts from PNG Constitution
- Treataware brochure
- Universal Declaration of Human Rights (Tok Pisin)
- You and the police brochure
- Telling people that you have HIV brochure
- HIV and the law brochure
- HIV and discrimination brochure
- HIV – sex and relationships

Attachment B - 2014 workshop evaluation

31 responses received. Number of PNG participants per day varied between 34 and 39.

A. How would you rate the workshop overall? (Rate on a scale where 1 is poor and 5 is excellent)

Nineteen participants rated the workshop a 5 [62%]. Four participants rated the workshop a 4. Five participants rated the workshop a 3. Two participants rated the workshop a 1.

B. Did the workshop achieve its goals? (Rate on a scale where 1 is no and 5 is yes)

Twenty-two participants rated the workshop at 5 (71%). Eight participants rated the workshop at a 4. One participant rated the workshop at a 3. No participants scored the workshop at 1 or 2.

C. What did you like about the workshop? Which sessions were the most useful to you?

- Workshop helped me understand rights & laws [7 responses]
- Rights: I know mine and others' rights [6 responses]
- Presentation on UDHR [2 responses]
- Law reform [2 responses]
- Rights in PNG Constitution [2 responses]; as presented by Diane & connected to PNG Constitution
- Happy that PNGDLA/Public Solicitor will help me
- Happy that I learned much about MDS, gay men & TGs
- Law reform: community/expression, policy, international, community support, problem advocacy
- Good work on laws
- Laws on "same sex act"
- Information on law regarding how we can defend ourselves until proven guilty
- Criminal laws explained by Diane
- It helps to know my rights
- IDLO gave good training & I understand my rights. Also happy that PLHIV like me were here and did the ART session
- Everything
- Every session by Joanne & Diane
- Interpretation of Sec 201 & Sec 212 – now clear & understood
- Who to go to for assistance & information
- Fundamental, qualified & special rights
- Safe spaces
- Double discrimination
- Learning about the partners that can help us – PNGDLA & Public Solicitor
- Laws
- Law reform presentation by DLA
- Rights & Laws
- Law re: sodomy is not right. We can contest it in court so lawmakers can change the law.

D. What do you need more information about?

- Nothing [4 responses]
- Everything I wanted to cover was covered and I really agree with learning lots of new things [4 responses]
- SRH [2 responses]
- 2-week training (2 responses)
- Brief on section of law to defend me as TGs/MDS
- Are there ways to get HIV other than fucking?
- More information about MDS/TG overseas where we [who practise anal sex] are legal
- Q&A timing was inconvenient
- More information on the minor laws that affect our community
- Same sex law Act
- HAMP Act review
- Booklet on PNG Constitution
- Convention on human rights [UDHR?]
- Care for PLHIV
- Satisfied that information was broken down to our level of understanding for me to relate to peers
- Issues MDS/TG face in community
- KC signboards where everyone can see
- Educating us on rights & laws
- More discussion on gender-based violence
- More on laws
- Who/which organisations are involved in law reform for PNG Constitution?
- How many kinds of court orders?

E. How could it be improved for next time?

- Handouts (and resources) given to participants (before presentations) [5 responses]
- K45 per diem not enough [2 responses]
- Do this workshop in other provinces [2 responses], especially remote areas
- Expose through electronic billboard, producing pamphlet, producing association brochures
- Base presentations on real stories
- Involve community leaders
- Later have workshop with church leaders, police, community leaders and Education Department
- More time – 5 days – for discussion, Q&A
- Fewer participants (24) so everyone shares, not just listening
- I want the rights of TGs & MSMs to be emphasised more and strongly imposed
- Invite government VIPS (women, men) to witness
- Invite bosses from police, CIS, Defence, Courts to attend workshop
- As KC member I'll go talk to others - family, friends – and tell them about KC's work
- Ask members re food and give them cash to buy their own food because K55 is a lot of money but the hotel meals weren't enough
- Presentations must be slower and (some of them should be) simplified
- Perfect
- More provincial reps because provinces have more MDS/TG
- Have real life movie to show
- Signboards in all provinces

- Participants ask more questions
- Translate all materials into *Tok Pisin*
- Daily evaluation at end of each day
- Night sessions
- Workers Compensation especially to do with discrimination @ workplaces/plan of employment
- How do they set compensation for GBV? Standard rate?
- More on law reform
- Bring the language down to a level easily understood
- Work as a team
- Work with people who don't know their rights.

Attachment C – 2014 workshop evaluation form

PNG DLA – Tingim Laip - Kapul Champions Workshop on HIV, rights and laws

Forest Research Institute 28-30 November 2014

Feedback Form

A. Overall Assessment

| | | | | | |
|---|------|---|---|---|-----------|
| 1. How would you rate the workshop overall? | 1 | 2 | 3 | 4 | 5 |
| | Poor | | | | Excellent |

B. Did the workshop achieve its goal?

| | | | | | |
|--|----|---|---|---|-----|
| 1. Help MSM and TG understand their rights and the laws that affect them. 2. Help MSM and TG to defend and promote their human and legal rights. 3. Give MSM and TG the opportunity to talk about issues that are important to them in a safe space. 4. Build KC's capacity to defend and promote the rights of its members and all MSM and TG across PNG. 5. Give interested organisations the chance to hear from MSM and TG about their issues. | 1 | 2 | 3 | 4 | 5 |
| | No | | | | Yes |

C. What did you like about the workshop? Which sessions were most useful to you?

D. What was missing from the workshop?

E. What should we do to improve the workshop next time?

Attachment D

Check understanding of Human rights by getting participants to work in pairs, small groups to complete the “Identifying Human Rights” sheet.

Which of the following are human rights and which fall into other categories?

| | Human Right | Other |
|---|-------------|-------|
| The right to life, liberty and security of person | | |
| The right to remain silent | | |
| The right to bear arms | | |
| The right to freedom of thought | | |
| The right to freedom of speech | | |
| The right to party | | |
| The right to own property | | |
| The right to be a gay man | | |
| The right to watch a movie | | |
| The right to go to school | | |
| The right to health | | |
| The right to drink alcohol | | |
| The right to work | | |
| The right to privacy | | |
| The right to a nationality | | |
| The right to your opinion | | |
| The right to drive | | |

| Rights from the Universal Declaration of Human Rights | Rights from the PNG Constitution |
|--|--|
| 1. We Are All Born Free & Equal. We are all born free. We all have our own thoughts and ideas. We should all be treated in the same way. | Equality of all citizens |
| 2. Don't Discriminate. These rights belong to everybody, whatever our differences. | Equality of all citizens |
| 3. The Right to Life. We all have the right to life, and to live in freedom and safety. | Right to life. |
| 4. No Slavery. Nobody has any right to make us a slave. We cannot make anyone our slave. | Freedom from forced labour. |
| 5. No Torture. Nobody has any right to hurt us or to torture us. | Freedom from inhuman treatment |
| 6. You Have Rights No Matter Where You Go. I am a person just like you! | Equality of all citizens; Right to the protection of the law |
| 7. We're All Equal Before the Law. The law is the same for everyone. It must treat us all fairly. | Right to the protection of the law |
| 8. Your Human Rights Are Protected by Law. We can all ask for the law to help us when we are not treated fairly. | Right to the protection of the law |
| 9. No Unfair Detainment. Nobody has the right to put us in prison without good reason and keep us there, or to send us away from our country. | Right to Liberty of the person. |
| 10. The Right to Trial. If we are put on trial this should be in public. The people who try us should not let anyone tell them what to do. | Right to the protection of the law |
| 11. We're Always Innocent Till Proven Guilty. Nobody should be blamed for doing something until it is proven. When people say we did a bad thing we have the right to show it is not true. | Right to the protection of the law |
| 12. The Right to Privacy. Nobody should try to harm our good name. Nobody has the right to come into our home, open our letters, or bother us or our family without a good reason. | Right to privacy. |
| 13. Freedom to Move. We all have the right to go where we want in our own country and to travel as we wish. | Right to freedom of movement. |
| 14. The Right to Seek a Safe Place to Live. If we are | No |

| | |
|--|---|
| frightened of being badly treated in our own country, we all have the right to run away to another country to be safe. | |
| 15. Right to a Nationality. We all have the right to belong to a country | Equality of all citizens |
| 16. Marriage and Family. Every grown-up has the right to marry and have a family if they want to. Men and women have the same rights when they are married, and when they are separated. | No |
| 17. The Right to Your Own Things. Everyone has the right to own things or share them. Nobody should take our things from us without a good reason. | Protection from unjust deprivation of property. |
| 18. Freedom of Thought. We all have the right to believe in what we want to believe, to have a religion, or to change it if we want. | Freedom of conscience, thought and religion. |
| 19. Freedom of Expression. We all have the right to make up our own minds, to think what we like, to say what we think, and to share our ideas with other people. | Freedom of expression. |
| 20. The Right to Public Assembly. We all have the right to meet our friends and to work together in peace to defend our rights. Nobody can make us join a group if we don't want to. | Freedom of assembly and association. |
| 21. The Right to Democracy. We all have the right to take part in the government of our country. Every grown-up should be allowed to choose their own leaders. | Right to vote and stand for public office. |
| 22. Social Assistance. We all have the right to affordable housing, medicine, education, and childcare, enough money to live on and medical help if we are ill or old. | No |
| 23. Workers' Rights. Every grown-up has the right to do a job, to a fair wage for their work, and decent working conditions. | Freedom of employment. |
| 24. The Right to rest and leisure, including time off work. | No |
| 25. Food and Shelter for All. We all have the right to a good life. Mothers and children, people who are old, unemployed or disabled, and all people have the right to be cared for. | No |

| | |
|---|--|
| <p>26. The Right to Education. Education is a right. Primary school should be free. We should learn about the United Nations and how to get on with others. Our parents can choose what we learn.</p> | <p>No, but included in National Goals & Directive principles</p> |
| <p>27. Everyone has the right to participate in cultural life.</p> | <p>No, but included in National Goals & Directive principles</p> |
| <p>28. A Fair and Free World. There must be proper order so we can all enjoy rights and freedoms in our own country and all over the world.</p> | <p>No</p> |
| <p>29. Responsibility. We have a duty to other people, and we should protect their rights and freedoms.</p> | <p>Yes</p> |
| <p>30. No One Can Take Away Your Human Rights.</p> | |

Attachment E – Double discrimination

I am Gay: 5 things I fear

