

Final Internship Report
By Evan Rankin (JD '16)

I have spent the summer interning at the UN's Economic and Social Commission for Asia and the Pacific (ESCAP) in the Social Development Division (SDD). I have had a number of responsibilities here, all relating to the intersection of human rights and HIV prevention. Specifically, I have been examining the rights and legal situations of three key at-risk populations: drug users, men who have sex with men (MSM), and sex workers. I have also touched upon the situation of transgender peoples in relation to judicial and policy decisions in India, Bangladesh, and Nepal. As a result of extreme social stigmatization and government discrimination, these groups are difficult to reach with prevention and treatment programming, leading to very high rates of HIV transmission. Thus, the best way to halt the epidemic is to reduce stigma by ensuring that these populations are afforded their human rights, and that these rights are enforced.

The following is a recount of the projects I have worked on and outputs I have produced.

First, I produced analyses of the judicial decisions of India and Nepal regarding legal recognition of a third gender (e.g. *Hijras*). These analyses explained what the decisions meant in practical terms and what the reasoning and precedents were that guided the courts. On a personal note, I found the jurisprudence surrounding the Indian Constitution very interesting and I hope to learn more while in law school. I also wrote a brief background note for internal use on the implication of Bangladesh's decision to recognize a third gender. After clearing the work with my supervisor and her supervisor, I produced a press release which attempted to describe in simple terms why these decisions were important for HIV programming. The press release is now published on the ESCAP SDD website.¹

The press release aligns with ESCAP SDD's somewhat gentle touch: it attempts to highlight why the human rights of transgender people are important for effective HIV responses, but does not name other countries in the region with more impoverished understandings of transgender rights (e.g. Malaysia and Russia).

Second, I prepared country reports which reviewed the legal regimes of various ESCAP member states and compared them against the regimes' actual implementation. I have produced four of these country reports; each country representing a sub-region of ESCAP. These reports have taken and heavily modified the framework of the SOGI reports that IHRP has been working on for the past several years. Each report is broken into three sections: MSM, sex workers, and drug users. In each section, there are sub-sections that provide for reviews of relevant legislation (including case law in common law jurisdictions and commentary), media scans, and NGO scans. The intention behind this is threefold: first, it provides the UN with a framework (and examples) for contrasting legal regimes with actual lived experiences of key populations. Second, the documents can be quietly used to convince Ministerial level delegations at policy

¹ <http://www.unescapsdd.org/news/recent-judicial-rulings-and-policy-changes-create-more-enabling-legal-environment-fight-against>

dialogues that the problems facing key populations are very real. I have emphasized personal stories in order to achieve a deeper impact with these delegations. Third, the framework can be given to NGOs representing key populations in ESCAP countries as a tool to use when talking with government partners about their policy needs. This project will be taken over by UNDP when I leave.

Third, I was responsible for updating ESCAP's lists of countries with punitive laws relating to MSM, sex workers, and drug users. There has been some progress since 2012 (Tajikistan eliminated residency and travel restrictions on people living with HIV in 2013²), but there have also been significant reverses. The Indian Supreme Court decision reversing a decision by the Delhi High Court that struck down Section 377 (sodomy) of the Indian Penal Code represents a historic blow to the rights of MSM in that country. This will almost certainly result in an increase in HIV rates among MSM in India over the coming years.

Fourth, although not totally law-related, I have drafted the annotated version of a ministerial paper on financing the regional response to HIV. This permitted me to explore funding issues relating to HIV responses outside of the legal bubble. Although there are a number of recommendations, two significant points emerged for me. First, difficulty generating the political will to deal directly with key populations leads to inefficient spending (i.e. wasted money). This is because resources are directed away from the epidemic 'hot spots' because some politicians do not want to be seen funding groups their constituents see as immoral or criminal. Second, countries need to be willing to implement TRIPS flexibilities despite pressure from developed countries in order to keep costs down. There must be a balance between the public good and the private benefits of patents.

Finally, in preparation for a major Ministerial conference on HIV tentatively scheduled for early 2015, I have been developing concepts for conference materials with a focus on legal barriers to HIV prevention. This work has been cursory and has not been a significant element of my time at ESCAP.

The internship also provided an informal opportunity to travel throughout Southeast Asia, including Cambodia, Myanmar, most of Thailand, and Lao PDR. These trips familiarized me with the realities of poverty and provoked some thinking about how ethics should shape and limit one's activities in a developing country. For instance, at what point is bargaining with a Shan tribal woman (the Shan is persecuted by the military junta in Myanmar) in a village market no longer ethical? I intend to write a supplement to my *Rights Review* submission that discusses some of the ethical problems involved in travelling through impoverished communities.

Ultimately, IHRP provided me with an opportunity to have these experiences, hardening my resolve to work in human rights internationally. I cannot thank the program enough.

²<http://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2014/march/20140328tajikistan/>



Evan at Bagan at sunrise. Photo credit: Sadaf Raja



Photo of a Shan market, Inle Lake. Photo credit: Sadaf Raja.



Boat launch, Inle Lake. Photo credit: Romain Galgani.