

## How can legal experts use the model?

- Law professors can use it to demonstrate the importance of international laws and guidelines and how these can be applied at the national level.
- Legal advocates can use the model to identify priority issues for legal reform.
- Experts designing legal frameworks or drafting legislation can use it as a resource to ensure the inclusion of vital elements.
- Legal analysts can use the model to illustrate the power of “legal silence” to infringe human rights and restrict access to health services.

## Assessing Legal Barriers to HIV-Related Services

Males who have sex with males (MSM), transgender (TG) people, and sex workers (SW) are at higher risk for HIV transmission than other individuals, even in generalized epidemics. Structural and policy issues have created barriers for MSM/TG/SW in seeking services and adopting individual and community harm reduction strategies. The *Policy Analysis and Advocacy Decision Model for HIV-Related Services: Males Who Have Sex with Males, Transgender People, and Sex Workers*, published by the Health Policy Project and AMSHeR (African Men for Sexual Health and Rights) with support from USAID and PEPFAR, is a collection of tools that helps users assess and address policy barriers that restrict access to HIV-related services for MSM/TG/SW.

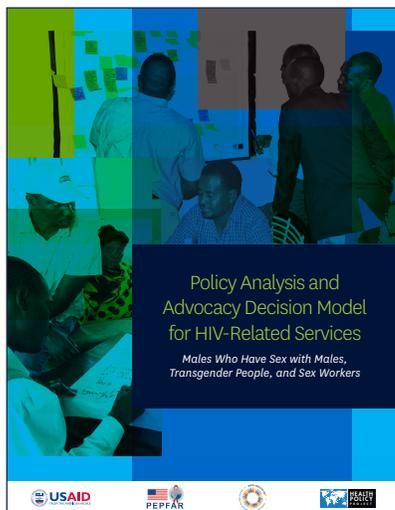
Designed to help country stakeholders build a public policy foundation that supports access to and implementation and scale-up of evidence-informed services for MSM/TG/SW, the decision model helps to clearly identify and address policy barriers to services. Its policy inventory and analysis tools draw from the extensive body of international laws, agreements, standards, and best practices related to MSM/TG/SW services, allowing the assessment of a specific country policy environment in relation to these standards. This customizable, in-depth, and standardized approach will build stakeholders’ capacity to identify incremental, feasible, near-term opportunities to improve the legal environment and the resulting quality of and access to services for MSM/TG/SW while long-term human rights strategies are implemented.

## Key Legal Issues

Even when legislation does not criminalize sex work, gender nonconformity, or same-sex sexual behavior, individuals who engage, or are perceived to engage, in these activities are often treated as criminals, even if they commit no crimes and inflict no harm to others. A pervasive environment of formal or informal stigmatization and discrimination leads to violations of human rights; facilitates abuse, violence, and extortion; and creates barriers to seeking services.

Policy-related issues covered in the decision model include the following:

- Legal silence on evidence-based services, resulting in HIV strategies and programs that are unspecific, non-binding, and neglectful of scientific evidence
- Failure of policies to specify the procedure and requirements for informed consent for all populations, environments and interventions



## To Access the Decision Model

- The *Policy Analysis and Advocacy Decision Model for HIV-Related Services: Males Who Have Sex with Males, Transgender People, and Sex Workers* is available in English.
- The *Policy Analysis and Advocacy Decision Model for HIV-Related Services: People Who Inject Drugs*, a companion publication, is available in English and Russian.
- To download either decision model please visit [www.healthpolicyproject.com/t/HIVPolicyModels.cfm](http://www.healthpolicyproject.com/t/HIVPolicyModels.cfm).
- To order a hard copy of either decision model please contact [policyinfo@futuresgroup.com](mailto:policyinfo@futuresgroup.com).

- Disclosure of personal health information without the consent of a patient or his/her legal representative or without court authorization in cases of criminal investigation or prosecution
- Data collection and management systems that insufficiently protect individual-level data can lead individuals with criminalized identities or behaviors, such as MSM/TG/SW, to avoid the health services that collect these data
- Insufficient policies that address stigma and discrimination on the grounds of sex work, sexual orientation/behavior, gender identity, nationality, place of origin, or migration
- Criminalization of same-sex sexual behavior, sex work, and transmission of communicable diseases (including HIV)
- Harsh “aiding and abetting” laws that punish coworkers and friends for failing to report homosexuality
- Inadequate legal protections against gender-based violence including policies that ignore male victims, TG victims, or victims who are incapable of giving consent
- Torture or cruel, inhuman, or degrading treatment or punishment of MSM/TG/SW
- Limited or no protections offered to MSM/TG/SW within the mandate of national human rights institutions

In many developing countries, these issues are exacerbated by broader structural factors such as a weak judicial systems, corruption and lack of accountability of law enforcement, and stigma and intolerance among the general population.

## Decision Model Tools

**Policy and Inventory Analysis.** Instruments and procedures to compile and analyze a reference library of country documents, laws, and policies and an analytical framework to compare the collected documents against international best practices and assess the extent to which they enable or restrict implementation of hepatitis, TB, HIV, drug treatment, and harm reduction services.

**Policy Implementation Assessment Interviews.** Survey instruments to collect opinions and experiences of key informants, service providers, and clients regarding the implementation of policies.

**Policy Advocacy Planning Worksheets.** Guidance to identify and prioritize policy issues, engage stakeholders, and conduct advocacy campaigns.

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The Health Policy Project is a five-year cooperative agreement funded by the U.S. Agency for International Development under Agreement No. AID-OAA-A-10-00067, beginning September 30, 2010. The project's HIV activities are supported by the U.S. President's Emergency Plan for AIDS Relief (PEPFAR). HPP is implemented by Futures Group, in collaboration with CEDPA (CEDPA is part of Plan International USA), Futures Institute, Partners in Population and Development, Africa Regional Office (PPD ARO), Population Reference Bureau (PRB), RTI International, and the White Ribbon Alliance for Safe Motherhood (WRA).

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