



LEGAL AND POLICY TRENDS

Impacting people living with HIV and key populations in Asia and the Pacific 2014 – 2019



	PEOPLE LIVING WITH HIV			Men who have sex with men	Trans-gender people	SEX WORKERS			PEOPLE WHO USE DRUGS					PEOPLE DEPRIVED OF LIBERTY			ALL KEY POPULATIONS					
	Discrimination prohibited against people living with HIV	HIV travel or migration restriction	Offence for HIV transmission, exposure or non-disclosure	Consensual sex between adult men illegal	Legal recognition of change of gender	Sex work in private illegal	Soliciting for sex work illegal	Sex work regulated and/or permitted in some locations	Corporal or capital punishment for drug offences	Compulsory centres for people who use drugs	Diversion from prisons to community services	Opioid-substitution therapy provided through government-approved programmes	Young people can access opioid-substitution therapy without parental consent	Needle and syringe programmes provided through government-approved programmes	Young people can access needle and syringe programmes without parental consent	Access to opioid-substitution therapy in prisons	Access to needle and syringe programmes in prisons	Access to condoms in prisons	Independent access to HIV tests for young people		Confidentiality of HIV test results	Prohibition of mandatory or compulsory HIV tests
Afghanistan	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Afghanistan
Australia	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Australia
Bangladesh	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Bangladesh
Bhutan	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Bhutan
Brunei Darussalam	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Brunei Darussalam
Cambodia	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Cambodia
China	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	China
Democratic People's Republic of Korea	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Democratic People's Republic of Korea
Fiji	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Fiji
India	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	India
Indonesia	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Indonesia
Japan	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Japan
Kiribati	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Kiribati
Lao People's Democratic Republic	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Lao People's Democratic Republic
Malaysia	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Malaysia
Maldives	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Maldives
Marshall Islands	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Marshall Islands
Micronesia (Federal States of)	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Micronesia (Federal States of)
Mongolia	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Mongolia
Myanmar	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Myanmar
Nauru	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Nauru
Nepal	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Nepal
New Zealand	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	New Zealand
Pakistan	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Pakistan
Palau	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Palau
Papua New Guinea	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Papua New Guinea
Philippines	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Philippines
Republic of Korea	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Republic of Korea
Samoa	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Samoa
Singapore	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Singapore
Solomon Islands	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Solomon Islands
Sri Lanka	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Sri Lanka
Thailand	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Thailand
Timor-Leste	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Timor-Leste
Tonga	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Tonga
Tuvalu	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Tuvalu
Vanuatu	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Vanuatu
Viet Nam	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	●	Viet Nam

●	The law or policy provides an enabling environment for HIV responses
●	Punitive law or policy; there is no enabling law or policy; the law or policy does not provide an enabling environment for HIV responses
●	Partially enabling; enabling but subject to significant limitations; some aspects of the law or policy are punitive
●	Information is unavailable or unclear

● Although there is no specific soliciting offence, other offences are enforced for soliciting; Note: in the Federated States of Micronesia, soliciting for sex work is illegal in only two states

Corporal or capital punishment for people who use drugs

- Penalties for use or possession of drugs do not include corporal or capital punishment
- Penalties for use or possession of drugs include corporal or capital punishment

The position in relation to capital punishment is ambiguous; this includes states where extrajudicial killings are condoned by the state and where the legal status of capital punishment for drug offences is unresolved

Compulsory centres for people who use drugs

- Countries do not have compulsory centres for people who use drugs
- Countries have compulsory centres operated by government agencies that meet the definition of compulsory centres for people who use drugs of the 2012 United Nations Joint Statement; in these countries, compulsory centres for "treatment" or "rehabilitation" of people who use drugs exist where due process rights are limited or absent or human rights violations have been documented
- Countries have compulsory systems for treatment and rehabilitation that operate treatment centres that have some of the features of compulsory centres for people who use drugs as described in the 2012 United Nations Joint Statement; these include countries with:
 - ▶ nongovernmental organization, faith-based or private centres where human rights abuses have been reported;
 - ▶ punitive systems for compulsory treatment or rehabilitation but where there is insufficient information (e.g. evidence of human rights abuses, standard conditions, absence of due process rights) to conclude that the centres fully meet the definition of the 2012 United Nations Joint Statement

Legal protections against discrimination on the grounds of HIV status

- Discrimination against people living with HIV is unlawful in key areas such as employment, education and health care under national legislation; this includes countries where people living with HIV are protected by general human rights or disability laws that include HIV
- There are no legal protections against discrimination on the grounds of HIV
- There are partial legal protections against discrimination on the grounds of HIV, including:
 - ▶ countries with some protections that protect against discrimination in limited circumstances (e.g. employment only, health care only);
 - ▶ countries with protections that apply only to part of the country;
 - ▶ countries with laws that prohibit discrimination on the ground of "disability", which may apply to an HIV-related disability but where it is unclear whether there is legal protection for people living with HIV who are well with no symptoms

Independent access to HIV testing for young people

- The law enables people aged under 18 years to access HIV testing without parental involvement or parental or guardian consent; this includes countries that have set 16 years as the age of consent for HIV testing
- There is no legal provision permitting adolescents to access HIV testing without parental or guardian consent; either the law prohibits people aged under 18 years from accessing HIV testing unless a parent or guardian consents, or there is no applicable law on age of consent to medical tests
- People aged under 18 years can access HIV testing in some (restricted) circumstances without parental consent; this includes countries where:
 - ▶ the child can consent if the parent or guardian cannot be found and it is in the child's best interests;
 - ▶ legislation applies only in some parts of the country;
 - ▶ the legal situation is ambiguous and age under 18 years is accepted in practice as the age of consent to testing

Law protects confidentiality of HIV test results

- There are strong legal protections for confidentiality of HIV test results; the law imposes penalties for unauthorized disclosure of HIV status
- There is no law imposing penalties for breach of confidentiality of HIV test results; there are general ethical and professional obligations to protect confidentiality of medical information but no law providing penalties for unauthorized disclosure of test results
- There is partial or weak legal protection of confidentiality of HIV test results, including countries where:
 - ▶ the law provides for confidentiality of HIV test results in only some parts of the country;
 - ▶ the duty to protect confidentiality of HIV test results is imposed by law or regulation but with broadly drafted or ill-defined exceptions

Prohibition on mandatory or compulsory HIV testing

- There are strong legal and policy protections against mandatory or compulsory HIV testing
- There is no legal prohibition on mandatory or compulsory HIV testing; laws or policies specify HIV testing as mandatory for certain groups
- There are weak or inadequate legal protections against mandatory or compulsory HIV testing, including countries where:
 - ▶ there are contradictory laws and policies, and mandatory HIV testing still occurs for specific groups;
 - ▶ the law prohibits compulsory or mandatory testing in only some parts of the country;
 - ▶ mandatory or compulsory HIV testing is prohibited in employment but not for other purposes;
 - ▶ although there is no mandatory HIV testing by government, there is no legal prohibition on mandatory or compulsory testing in private employment, education, health care or other settings

Legal recognition of gender change by transgender people

- Law provides for change of gender markers on passports or other identity documents for transgender people without requirement to undergo gender-reassignment surgery or other prohibitive requirements
- Law does not provide for change of gender for transgender people
- Law provides for change of gender for transgender people in limited circumstances or on condition that the person undergoes gender-reassignment surgery or other prohibitive conditions

Sex work regulated and permitted in specific locations

- Sex work permitted and regulated at certain sites
- There are no officially tolerated brothels or sex work areas
- Sex work at certain sites is quasi-legal and permitted in limited circumstances; legal status is ambiguous and tolerated by police within specific areas

Diversion from prisons to community services

- Country has system for diversion of people who use drugs from prison or detention to treatment or services in the community without threat of legal sanctions for noncompliance
- No system for diversion of people who use drugs from prison or detention to treatment or services in the community, but with threat of legal sanctions for noncompliance

Opioid-substitution therapy provided through government-approved programmes

- Opioid-substitution therapy provided to people who use drugs through government-approved programmes

- Opioid-substitution therapy not available to people who use drugs through government-approved programmes
- Partial or ambiguous government support or restricted availability of opioid-substitution therapy for people who use drugs

Young people can access opioid-substitution therapy without parental consent

- Young people aged under 18 years can access opioid-substitution therapy without a legal requirement for parental consent
- Consent of a parent or guardian is required for a young person aged under 18 years to access opioid-substitution therapy
- It is unclear or ambiguous whether consent of a parent or guardian is required for a young person aged under 18 years to access opioid-substitution therapy

Needle and syringe programmes provided through government-approved programmes

- Needle and syringe programmes are provided to people who use drugs through government-approved programmes
- Needle and syringe programmes are not available to people who use drugs
- Partial or ambiguous government support to needle and syringe programmes and restricted availability of needle and syringe programmes to people who use drugs

Young people can access needle and syringe programmes without parental consent

- Law or policy allows young people aged under 18 years to access needle and syringe programmes without a legal requirement for parental consent
- There is no legal provision allowing young people aged under 18 years to access needle and syringe programmes without a requirement for consent to be obtained from a parent or guardian
- It is unclear or ambiguous whether consent of a parent or guardian is required for a young person aged under 18 years to access needle and syringe programmes

Access to opioid-substitution therapy in prisons

- Law or policy supports access to opioid-substitution therapy in prisons
- Law or policy does not support access to opioid-substitution therapy in prisons
- Partial or ambiguous support to opioid-substitution therapy in prisons; policy support to opioid-substitution therapy but implementation has not commenced or is very limited in scale

Access to needle and syringe programmes in prisons

- Law or policy supports access to needle and syringe programmes in prisons
- Law or policy does not support access to needle and syringe programmes in prisons
- Partial or ambiguous support for needle and syringe programmes in prisons; programmes being piloted in some prisons

Access to condoms in prisons

- Unambiguous policy support for condom availability in prisons, and condoms available to people deprived of liberty
- Condoms not available in prisons; law or policy does not support condom availability in prisons
- Partial or ambiguous support to condom availability in prisons, including countries where:
 - ▶ condom availability is restricted to certain facilities or specific circumstances such as conjugal visits;
 - ▶ condom availability in prisons is supported in principle but is yet to be implemented

HIV-specific migration and travel restrictions

- No HIV-specific travel or migration restrictions; no requirement to undergo HIV test as condition of visa or entry permit
- HIV-related travel or migration restrictions exist; the term "HIV-related travel restrictions" refers to restrictions on entry, stay and residence where:
 - ▶ HIV is a formal and explicit part of the law or regulation;
 - ▶ HIV is referred to specifically, apart from other comparable conditions; and
 - ▶ exclusion or deportation occurs because of HIV-positive status only
- Mandatory HIV test requirements are imposed that may result in some form of restriction on the entry, stay and residence of people living with HIV based on their HIV status; the requirement to have an HIV test is compulsory for applicants for some entry or residence permits; in most cases, an HIV test is required to identify people who may be a financial burden on the health system or considered to be a "public health threat"; in such cases, people living with HIV are not automatically denied entry or residence but are treated similarly to other people with health conditions that are costly to treat or considered a risk to public health

Criminalization of HIV transmission

- No HIV-specific transmission, exposure or non-disclosure offences; HIV transmission is subject to general criminal laws or penal code provisions relating to, for example assault and intentionally spreading disease, but HIV is not specifically listed or identified in the law
- HIV-specific penal laws criminalize HIV transmission, exposure or non-disclosure, with criminal penalties that include imprisonment; penalties are prescribed in penal codes or crimes acts
- HIV transmission and failure to take precautions are criminalized under public health infectious disease or sexually transmitted infection laws

Gay men and other men who have sex with men: criminalization of sex between adults

- Consensual sex between adult men has been decriminalized or is not a criminal offence
- Consensual sex between adult men is a criminal offence
- Partial criminalization of consensual sex between adult men, e.g. only in relation to members of the military or where criminalization is partly repealed or ambiguous

Sex work in private is prohibited

- Sex work in private is not criminalized
- Sex work in private is prohibited by criminal or administrative law
- Sex work in private is partly criminalized (e.g. clients are punished but not workers) or criminalized in some parts of the country only

Soliciting is criminalized

- Soliciting for sex work is not criminalized
- Soliciting is criminalized