BEYOND HIV/AIDS:

HAS THE PRESIDENT'S EMERGENCY PLAN FOR AIDS RELIEF SPARKED POLICY CHANGE?

Undergraduate Honors Thesis

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ABSTRACT

This paper examines the President's Emergency Plan for AIDS Relief's (PEPFAR) effect on national policy change in fifteen recipient countries. It looks at three policies across these countries: abstinence, be faithful, use condoms; anti-prostitution pledge; and men who have sex with men. Countries are most likely to make a policy change when the policy is explicitly stated in PEPFAR and implemented by the national government. In Uganda, strong leadership by President Museveni led to policy change toward American preferences, despite an existing and successful national HIV/AIDS plan. In Kenya, the newly elected President Kibaki implemented PEPFAR policy priorities and used the ensuing funding to establish himself as a leader in the fight against HIV/AIDS. In both cases, the countries shifted towards American preferences because the policies in question were implemented on a national level and explicitly required by PEPFAR.

INTRODUCTION

Since the HIV/AIDS epidemic began in the early 1980s, over 60 million people have been infected, which is equivalent to approximately 20 percent of the U.S. population, and nearly 30 million people have died of HIV-related causes (Census, 2011; UNAIDS, 2010b). HIV is most prevalent in countries that are least equipped to respond. Fortunately, the developed world has made significant investments in technology, medication, and knowledge that have helped develop a better understanding of the disease. The United States has played a leading role in HIV/AIDS efforts. In 2003, of the 4 million people in sub-Saharan Africa requiring treatment for AIDS, only 50,000 were receiving medication (Bush, 2003). As of 2010, of the 5.2 million people on antiretroviral drugs (ARVs), 4.7 million received support through the President's Emergency Plan for AIDS Relief or the Global Fund to Fight AIDS, Tuberculosis and Malaria, of which the U.S. was a founder (Clinton, 2011; OGAC, 2010b).

When President Bush and his administration launched PEPFAR in 2003, many doubted the state of the HIV/AIDS epidemic in such resource-scarce countries could change. PEPFAR proved the skeptics wrong by developing health delivery capacities, strengthening prevention efforts, expanding access to treatment and care, and providing services to those in need. In many countries of sub-Saharan Africa, the HIV incidence rate declined by more than 25% between 2001 and 2009 (UNAIDS, 2010a). As Ambassador Goosby stated, "Simply put, PEPFAR has restored hope," (Goosby & Dybul, 2011).

The paper will begin by presenting a background on PEPFAR and the theory behind aid conditionality. The paper examines three national policies in countries that received PEPFAR support to determine if changes towards U.S. policy preferences exist and if they can be linked to the implementation of PEPFAR. The final section provides case studies of Kenya and Uganda as in-depth examinations of policy changes.

The paper concludes that U.S. foreign aid affects policy change in recipient countries, but is more successful at doing so under certain conditions than others. Trends in national policy change are most visible when PEPFAR explicitly states policy preferences and the policies are implemented on a national scale by the recipient government. Trends are less visible when policy preferences are stated in PEPFAR but implemented on an organization-by-organization basis,

and are not linked to PEPFAR when preferences are not clearly stated in the policy.

PEPFAR BACKGROUND

On May 27, 2003, the U.S. Congress passed the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Leadership Act). This act launched the U.S. Global AIDS Initiative to create a 5-year plan to combat the global HIV/AIDS epidemic, assign executive branch agencies to various aspects of the initiative, improve coordination among agencies, and project general levels of resources necessary to fulfill the plan (IOM, 2007). From this arose President George W. Bush's administration's President's Emergency Plan for AIDS Relief, a $15 billion five-year commitment to fight the HIV/AIDS epidemic based in the State Department and run by Office of the Global AIDS Coordinator (OGAC).

PEPFAR identified three broad goals: (1) encourage bold leadership at every level to fight HIV/AIDS (2) work with host governments to apply best practices to prevention, treatment, and care programs, and (3) encourage coordination among partners, particularly with response, monitoring, and evaluation efforts (IOM, 2007). PEPFAR aimed to treat 2 million people, prevent 7 million new HIV infections and support care for 10 million people in five years (Foundation, 2011).

Uganda's Success Cited During PEPFAR Creation

Researchers at USAID used Uganda as a success story as they prepared the legislation for PEPFAR. From 1992-2000, HIV prevalence in Uganda fell dramatically, peaking at 15 percent in 1991 and dropping to 5 percent by 2001 (Hogle, Green, Nantulya, Stoneburner, & Stover, 2002). A report to USAID in February 2002 concluded that Uganda was successful because of a balanced prevention approach, which U.S. policy makers named "Abstain, Be Faithful, or Use Condoms," more commonly referred to as ABC (Hogle et al., 2002).

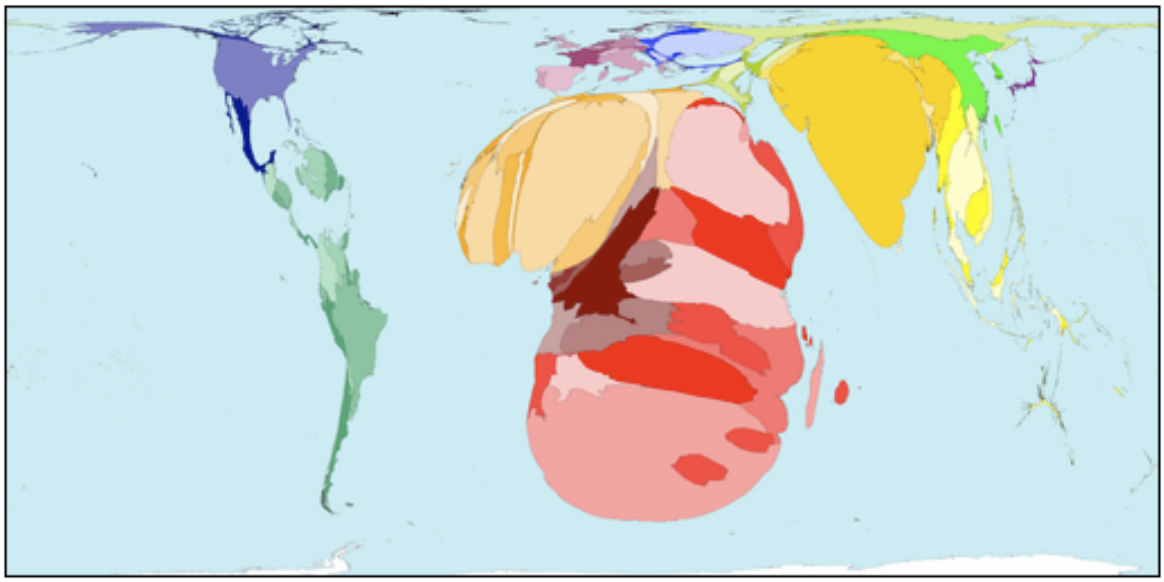
Of the $15 billion PEPFAR allocated to fight HIV/AIDS, $1 billion was earmarked for abstinence until marriage and faithfulness programs. Specifically, of the 20 percent of PEPFAR funds spent on prevention, at least 33 percent had to be spent on abstinence-until-marriage programs (Congress, 2003). This earmark was justified in part by Uganda's success in reducing HIV infection rates, which President Bush attributed to ABC without acknowledging the effects of more comprehensive policies (Wendo, 2003) In congressional debates, abstinence policies drew support from right-wing Republicans, encouraged by President Bush, while Democrats argued for existing condom programs (Epstein, 2007).

The Largest International Health Response By One Nation to Combat a Single Disease

PEPFAR increased U.S. federal funding for international HIV/AIDS programs by 1404% from 1995 to 2004, making it the largest international health response by one nation to combat a single disease (Bush, 2003). As of 2006, PEPFAR alone provided funding for one out of every three people on antiretrovirals in low and middle income countries (Isbell, 2006). As President Bush stated to Congress, "Ladies and gentlemen, seldom has history offered a greater opportunity to do so much for so many" (Congress, 2003, p. 7). By announcing PEPFAR exactly one week before the start of the war against Iraq, President Bush sent a clear signal that his foreign policy was both compassionate and tough (Epstein, 2007).

More than 97% of those living with HIV/AIDS in 2003 lived in low- and middle-income countries, placing the highest burden on countries that are least equipped to respond. Figure 1 has been adjusted to show the territories with the highest proportion of people aged 15-49 living with HIV (Worldmapper, 2003).

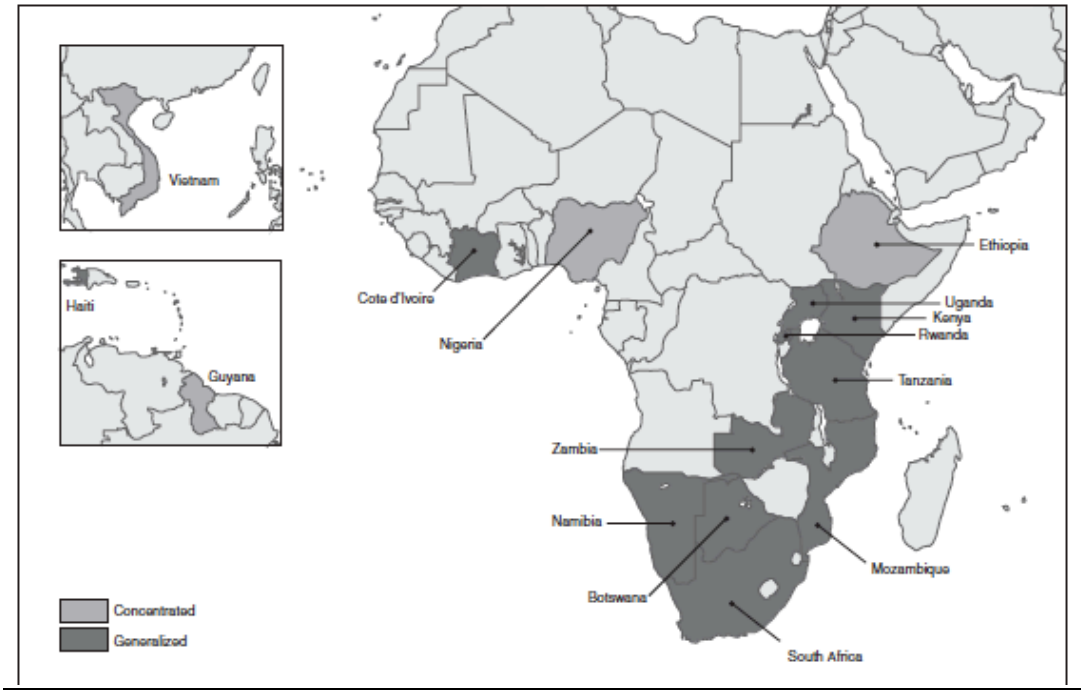
Figure 1 - Territory Size Adjusted to Show Proportion of People (15-49) Living with HIV



Source: Worldmapper. (2003). Territory Size Shows Proportion of People (15-49) Living with HIV. from http://www.worldmapper.org/display.php?selected=227

Of the $15 billion authorized by the Leadership Act, $10 billion was designated for efforts in 15 focus countries that accounted for more than 50 percent of the world's infections. These countries are: Botswana, Côte d'Ivoire, Ethiopia, Guyana, Haiti, Kenya, Mozambique, Namibia, Nigeria, Rwanda, South Africa, Tanzania, Uganda, Vietnam and Zambia (OGAC, 2005). As an emergency health intervention, the primary criterion for PEPFAR funding was a high prevalence of HIV/AIDS, however, the following factors were also considered: highest burden of disease, government commitment to fighting HIV, administrative capacity, and a willingness to partner with the U.S. government (Bendavid & Bhattacharya, 2009). Figure 2 shows the stage of the AIDS epidemic in PEPFAR focus countries immediately before PEPFAR implementation. Countries are classified as concentrated if HIV had not spread to the general population or generalized if at least one percent of the general population was infected (GAO, 2006).

Figure 2 - Stage of AIDS Epidemic in PEPFAR Focus Countries



Source: GAO. 2006. Global Health: Spending Requirement Presents Challenges for Allocating Prevention Funding under the President's Emergency Plan for AIDS Relief. In *Report to Congressional Committees*, edited by U. S. G. A. Office. Washington, D.C.

Kenya, South Africa, and Uganda received the most money in 2004 and 2005 (see Table 1 in the Appendix for total funding received by each focus country in FY 2004-2006).

PEPFAR is considered successful for significantly increasing the number of people receiving ARVs. According to Joe Biden, at the time the chairman of the Senate foreign relations committee, "It may be the greatest legacy this president leaves or any president could leave" (Jack, Dombey, & Ward, 2008, p. 1). However, it has also been criticized for aspects of its prevention and implementation techniques. This paper aims to determine if PEPFAR affected policy change at a national and AIDS-specific level in focus countries.

THEORETICAL FRAMEWORK

In the field of foreign aid, the process by which donors attach certain requirements to an aid package is known as aid conditionality (Montinola, 2010). Donor countries use aid packages to incentivize a shift in recipient countries' policies towards donor preferences by threatening to terminate aid, and/or actually terminating it, if conditions are not met (Stokke, 1995). Conditionality falls into two categories: negative conditionality, a reduction in aid if policy goals are not met, and positive conditionality, an increase in aid in response to improving performance (Waller, 1995). One tactic may be more effective than the other depending on the type of policy being promoted and the relationship between donor and recipient government.

PEPFAR includes conditions on funding allocation in the field: 55% on treatment, 20% on prevention, 15% on palliative care, and 10% on orphans and vulnerable children. Particularly controversial are the requirements that 33% of prevention funding be spent on abstinence and be faithful programs and that any organization receiving PEPFAR funding must sign a pledge opposing prostitution. Conditionality in PEPFAR is both negative and positive. If organizations do not sign the anti-prostitution pledge they risk losing all PEPFAR funding (negative), yet meeting prevention, treatment, and care goals can result in a funding increase (positive).

The aid relationship is inherently asymmetrical in favor of the donor country, which has funding or other resources that the recipient country needs. The consequences of this asymmetry are especially dangerous with health-related foreign aid because losing funding may mean sacrificing the lives of citizens and risking political instability. Therefore, recipient countries may accept a condition they do not agree with if it is the only way to qualify for aid For example, many of PEPFAR's focus countries had strong condom programs in place prior to 2004, but reduced these programs to become more attractive candidates for PEPFAR funding.

Situations Where Aid Conditionality Can Be Used

Aid conditionality can be used in a variety of situations. The nature of the relationship among donor governments, recipient governments and the recipient country's citizenry plays an important role in the process. If a recipient country is unaware of a policy's existence, possibly due to lack of information or insufficient resources for implementation, the country may be easily convinced of a policy's utility when introduced by a donor country (Wane, 2005). In this case, it is unnecessary to incentivize a policy change because providing the resources required for implementation is often enough.

When donor and recipient governments disagree about the effectiveness of a policy, aid conditionality can play a much larger role (Wane, 2005). In this case, the aid package is used as an incentive for the recipient government to implement the policy. In general, for aid conditionality to be relevant and effective, there must be disagreement between the two governments about the utility of a certain policy (Montinola, 2010).

Aid conditionality can also play a large role when both the donor and recipient governments agree that a policy is useful, but there is domestic resistance in the recipient country (Wane, 2005). The recipient government can use the aid package as insurance against future reversal of the unpopular policy because it forces political leaders to weigh the real risk of losing millions of dollars in aid if they overturn the policy.

Recipient governments can also use aid conditionality to show commitment to a certain policy or policy environment. By accepting and implementing a policy, countries can signal to donors that they are committed and reliable, which may encourage additional investment (Marchesi & Thomas, 1999). Figure 3 outlines the variety of situations in which aid conditionality can be used and their relevance to PEPFAR.

Figure 3 - Situations When Aid Conditionality Can Be Used

Relationship Between Donor and Recipient Governments	Purpose of Aid Package	Relevance to PEPFAR	Expect to See
1. Recipient does not know policy exists or does not have the capacity to implement it	No need for conditionality; introducing the policy may be enough	Some countries did not have an infrastructure in place to deal with AIDS epidemic, so PEPFAR helped to set one up	Countries will adopt U.S. policy preferences when PEPFAR introduces a framework for AIDS prevention, treatment, and care and provides the resources to implement it
2. Donor and recipient disagree about policy	Acts as incentive for recipient to implement policy	This is the case with certain conditions within PEPFAR about how funding should be spent, especially with regards to abstinence programs and the anti-prostitution pledge.	Countries will adopt policies that are prerequisites for PEPFAR funding and are put into effect by the national government, but not policies that are implemented on an organization-by-organization level.
3. Donor and recipient agree about policy	Sends signal to private donors that recipient is committed to this policy	Focus countries that receive PEPFAR aid signal their commitment to fighting the AIDS epidemic, thereby inviting additional funding from other donors.	Countries will adopt all policies that they agree with and come with aid.

Aid Conditionality and Its Relationship to PEPFAR

Understanding the theory behind aid conditionality is essential to draw conclusions about changes in national policies in PEPFAR focus countries. Because of the magnitude of the HIV/AIDS epidemic, any attempt to combat the disease involves a broad spectrum of policies. HIV/AIDS is related to a variety of human rights issues, such as the treatment of sex workers and men who have sex with men. PEPFAR also affects national policy priorities and specific policies on a smaller, organization-by-organization level. This study examines policy changes on the national and organizational level.

HYPOTHESIS AND OBSERVABLE IMPLICATIONS

1. When PEPFAR explicitly states policy preferences as prerequisites for aid and the policy change is implemented at a national level by the government, there will be visible trends in policy change within the focus countries.

Observable Implications:

1a. Countries will visibly shift toward the Abstinence, Be Faithful, Use Condoms approach to HIV prevention.
1b. Organizations will sign an anti-prostitution pledge, but there will not be national policy changes.
1b. The timing the policy change will correspond with the acceptance of PEPFAR funding.

METHODOLOGY

This study does a policy-by-policy overview of the fifteen focus countries followed by two case studies. Information for this study was collected from a variety of online databases. The Country Fact Sheets on the AIDS Info database (which draws from the World Health Organization, United Nations Children's Fund, Joint United Nations Programme on HIV/AIDS, and Measure Demographic and Health Surveys) provided basic country information, epidemiological facts, HIV/AIDS related statistics, and an overview of laws and discrimination. The PEPFAR website and archives provided essential documents, in particular the Partnership Frameworks and annual reports to Congress. Each country's pre-negotiation agreement explained policy changes it promised before receiving funding. In addition, the following information was collected for each focus country: when it received PEPFAR funding, how much it received, government regime type, and the status of various policies before and after receiving funding. Other important sources were U.S. Congressional hearings about PEPFAR, academic journal articles, publications by human rights organizations, and publications by the United Nations. Sources include a combination of primary qualitative or quantitative research reports, multi-country evaluations of PEPFAR, government publications, media coverage, and grey literature

Case studies on Kenya and Uganda provide a more in depth examination of policy trends. These countries were chosen because of their size, HIV prevalence, level of PEPFAR funding, strength of government response, and the availability of information in English. Their location in East Africa facilitates comparisons between the two. Additionally, Uganda was chosen because it was cited as a success story in the development of PEPFAR legislation. Studying the responses to PEPFAR conditions by these countries allows insight into the way policy change is implemented in different epidemiological and political settings. Information was collected about the level to which each country implemented PEPFAR policy preferences through PEPFAR pre-negotiation agreements, legislative records, local media sources, UN Reports on Global AIDS Epidemic, and the State Department Reports on Human Trafficking.

TRENDS OF POLICY CHANGE IN PEPFAR FOCUS COUNTRIES

This section examines trends in policy change across PEPFAR focus countries for three policies: abstinence, be faithful, use condoms; anti-prostitution pledge; and men who have sex with men.

POLICY ONE: ABSTINENCE, BE FAITHFUL, USE CONDOMS

Official PEPFAR Stance

PEPFAR requires focus countries to adopt the Abstinence, Be Faithful, and consistent Condom use (ABC) approach to HIV prevention. Abstinence encourages people to wait until marriage to engage in sexual activity and emphasizes that abstaining from sex is the only sure way to avoid contracting HIV or STIs. It is targeted at the population of 15 to 24 year olds, where approximately half of new infections occur (OGAC, 2004).

Around 50% of prevention funding is spent on programs to stop sexual transmission. PEPFAR spends 66% of this allotment on the interruption of sexual transmission through A and B activities, meaning that in 2007, "of the 61 million people reached in PEPFAR-supported outreach programs, over 40 million were in programs promoting only abstinence and/or being faithful" (Dietrich, 2007, p. 12). The remaining funds supported testing programs, condom distribution, and other activities. OGAC released specific rules that further specify how PEPFAR funds may be used in regards to ABC programs (GAO, 2006):

1. Any PEPFAR-funded program that provides information about condoms must also provide information about abstinence and faithfulness.
2. PEPFAR funds may not be used to physically distribute or provide condoms in school settings.
3. PEPFAR funds may not be used in any setting for marketing campaigns that target youths and encourage condom use as the primary intervention for HIV prevention.

Figure 4 - Summary of ABC Policy

Policy	PEPFAR Stance
Abstinence, Be Faithful, Use Condoms	• Countries must use ABC approach to prevention • 66% of funding used to stop sexual transmission must be used on A and B • Programs that provide information about C must also discuss A and B • May not use funds to support distribution of condoms in schools • May not use funds to target youth with marketing campaigns supporting condom use as a primary intervention for HIV prevention

Policy Trends

There have been definite national policy trends towards the ABC approach to HIV prevention in PEPFAR's focus countries. PEPFAR clearly articulated the ABC condition and mandated implementation on a national level. In the 15 focus countries in 2004, PEPFAR funded 135 mass media campaigns focused on abstaining and being faithful, reaching approximately 130 million people (Brocato, 2005). Additionally, the OGAC report to Congress shows that PEPFAR funded 25 mass media campaigns exclusively focused on abstinence that reached an audience of 32.1 million (OGAC, 2005).

Prior to receiving funding in 2004, focus countries' national responses to the HIV/AIDS epidemic were at various stages. Most had developed some degree of a national response, while a select few had comprehensive programs in place. Countries with clearly stated plans in place before PEPFAR implementation provide the most visible examples of shifting policy priorities.

Figure 5 shows examples of focus countries that clearly supported condom promotion in their original HIV response, but shifted focus toward abstinence and faithfulness with PEPFAR implementation.

Figure 5 – Select Focus Countries' Response to ABC Condition in PEPFAR

Country	National HIV Policy Pre-PEPFAR	Shift Due to PEPFAR Funding
Botswana	Progressive and comprehensive program for fighting AIDS; free treatment to HIV+ citizens; social marketing campaign promoting AB; prevention activities through national media campaign that include improving access to and increasing education about condoms	Worked with Botswana government to support national abstinence messages in schools; focus on 'life skills' training
Ethiopia	Promote condoms for targeted groups and provide free condoms in 'relevant' sites	AB materials and campaigns targeted at high and medium risk groups
Haiti	National plan with 3 main strategies: reduction of risk, vulnerability, and impact; promotion of safe behavior, management of STDs and distribution of condoms	Counseling, peer education, youth groups; radio programs and radio soap operas promoting AB
Nigeria	HIV/AIDS Emergency Action Plan (2001): promoted safe sex, sexual abstinence, appropriate use of condoms, prevention of transmission through blood, voluntary counseling and testing services (VCT), prevent mother-to-child transmission, early treatment of STIs, focus on youth; human rights focused; education programs *Nigerian Abstinence Coalition created in 2004 (had national workshop that year); NGOs and FBOs; affiliate of Abstinence Clearinghouse (U.S. based)	U.S. embassy gave grants for media-related activities: clubs, education programs, hotlines, de-stigmatization programming

Source: Brocato, V. (2005). Focusing in on Prevention and Youth *SIECUS-PEPFAR Country Profiles*: The Sexuality Information and Education Council of the United States SIECUS.

Ethiopia provides a particularly interesting case because the availability of condoms was originally a national priority. Its 2001-2005 *Strategic Plan* emphasized the importance of condoms to HIV prevention efforts stating, "there should be an alternative for those who cannot limit themselves to abstinence or faithfulness…condom promotion can be successful only if the availability of condoms at any time is ensured, and accessibility to the users is improved" (Ethiopia, 2001, p. 23). However, the emphasis on condom promotion and distribution is absent in the 2004-2008 *Strategic Plan.* The timing of this shift clearly corresponds with the first year of availability of PEPFAR funding.

Nigeria also shows very clear shifts toward U.S. policy priorities. The Nigerian HIV/AIDS Emergency Action Plan of 2001 promoted safe sex, sexual abstinence, and the appropriate use of condoms, presenting them at equal levels of importance (Brocato, 2005). In April of 2004, thirty non-governmental and community-based organizations formally announced the creation of the Nigerian Abstinence Coalition, which promoted abstinence-until-marriage and spousal fidelity

within wedlock and is an affiliate of the U.S. based organization Abstinence Clearinghouse (Abstinence, 2004). The combination of strong advocacy by these organizations and an unclear condom stance from the Nigerian government paved the way for a shift towards abstinence and faithfulness programs and away from condom use. Colleagues of Jodi Jacobson, founder and executive director of the Centre for Health and Gender Equity (CHANGE), working on the ground in Nigeria, Kenya, and Zambia stated, "restrictions in U.S. policy are crippling effective condom procurement and distribution programmes that reach a broad audience with information on the importance of correct and consistent condom use" (Jacobson, 2005, p. 1).

These examples are typical of PEPFAR focus countries. Some shifted away from condom promotion in anticipation of PEPFAR funding, like Ethiopia, while others made changes throughout the process. The policy changes clearly correspond with the availability of PEPFAR funding, so U.S. aid conditionality regarding ABC was a success.

POLICY TWO: ANTI-PROSTITUTION PLEDGE

Official PEPFAR Stance

The Leadership Act includes an official limitation, known as the anti-prostitution pledge (APP), that "no funds made available to carry out this Act, or any amendment made by this Act, may be used to provide assistance to any group or organization that does not have a policy explicitly opposing prostitution and sex trafficking" (Congress, 2003, p. 24). The APP applies directly to organizations. The decentralized nature of this stipulation makes it more difficult to track policy changes, although it is still possible to perceive national policy implications.

The APP forbids organizations that support prostitution in any capacity (even with money from private donors) from receiving PEPFAR funding (CHANGE, 2010). In addition, "even organizations whose prevention and treatment programs for AIDS have nothing to do with prostitutes must now certify in writing their acceptance of their pledge or face a funding ban" (Phillips, 2005, p. 1). The pledge has been controversial and difficult to enforce because the U.S. government has failed to give clear guidelines about what constitutes a violation.

At a meeting with the Alliance for Open Society International and Open Society Institute in April 2005, Kent Hill, a senior USAID official, offered one of the few explanations of the requirement, though was quick to say it was merely his interpretation and not official guidance. He said a violation would occur if an organization advocated for the legalization of sex work or too great a reduction in penalties, helped unionize sex workers, or if USAID decided the organization issued too many statements supporting sex work (AOSI 2005). Figure 6 details PEPFAR's stance toward the APP from 2003 through 2011.

Figure 6 - Timeline of PEPFAR Stance on the Anti-Prostitution Pledge

Year	PEPFAR Stance
2003	*"No funds… may be used to provide assistance to any group or organization that does not have a policy explicitly opposing prostitution and sex trafficking."* *"No funds … may be used to promote, support, or advocate the legalization or practice of prostitution."*
2004	*"[A]ny foreign recipient [grantee] must have a policy explicitly opposing,*

	in its activities outside the United States, prostitution and sex trafficking..."
2008	Grantees must "*certify*" their "*objective integrity and independence from any organization that engages in activities inconsistent with a policy opposing prostitution and sex trafficking*."
2010	Grantees must "*agree*" that "*they are opposed to the practices of prostitution and sex trafficking because of the psychological and physical risks they pose for women, men and children*."
2011	U.S. Court of Appeals ruled, "government may not force US organizations that get funding for international anti-AIDS work to pledge their opposition to prostitution."

Sources: (Congress, 2003, p. 24) (Ditmore & Allman, 2010a, pp. 6-7) (HRW, 2011, p. 3)

Policy Trends

Tracking national policy trends related to the anti-prostitution pledge is difficult because the condition applies on an organizational level. The combination of unclear guidelines and unpredictable enforcement left many organizations unsure of how to proceed. Some chose to sign the pledge and cease work with sex workers all together. The Lotus Club project, an organization working in the brothel district of Svay Pak, Cambodia, found its ideology in conflict with the APP. Medecins Sans Frontieres (MSF) passed supervision of the Lotus Club to a local organization in 2002 when it was brought before the House Committee on International Regulations as an example of 'Foreign Government Complicity in Human Trafficking". By distancing itself from the APP controversy, MSF hoped to remain eligible for long term U.S. foreign aid (Busza, 2006) . MSF's disaffiliation with the Lotus Club occurred directly before the creation of PEPFAR, an example of a preemptive policy change to qualify for aid. It is hard to track the effects of national policy change in all focus countries because accounts of organizations like this are scarce. Often, organizations chose to keep a low profile than draw attention to themselves and risk losing funds (Busza, 2006).

Other organizations aired on the conservative side of their interpretation of the APP to avoid conflict. A study by CHANGE "found that 19 of 31 people interviewed in the field reported that they censored themselves or their organizations as a result of the pledge" (CHANGE, 2008, p. 19). These procedural adjustments led to the removal of references to sex workers from websites, avoidance of local and international news coverage, closure of drop-in centers, denial of clinical services to sex workers, discontinuation of education programs advocating safer sex techniques, withdrawal of access to condoms and lubricant, and termination of campaigns against violence against sex workers (Ditmore & Allman, 2010b).

Many groups receiving PEPFAR funding created a written policy about their position on prostitution, but these reports have not been disclosed (CHANGE, 2010). Pathfinder International, which combats HIV/AIDS in Africa, officially signed the pledge in July 2004, but made it very clear that it violated their organization's purpose and beliefs. Pathfinder explicitly stated that they signed the pledge to remain eligible for funding and "were it not for the mandate in the Global AIDS Act, Pathfinder would not have adopted the above policy" (AOSI 2005, p. 19). Although not all organizations made this statement so openly, many only signed the pledge because it was a requirement of the Leadership Act.

Some organizations chose to sign the pledge, yet continued to work with commercial sex workers. Because so many organizations received PEPFAR funding, the U.S. may not have been able to monitor all of them to ensure compliance to the APP. A Center for Strategic and

International Studies delegation to Nigeria in 2005 found that the National Action Committee on AIDS signed the pledge but continued interventions with commercial sex workers including peer education and condom promotion. "U.S. domestic debates about outreach to commercial sex workers – for example, the requirement that organizations doing such work declare their opposition to prostitution – have little relevance on the ground" (Cooke, Jr., & Morrison, 2005, p. 13). Some organizations stood by their belief that working with commercial sex workers is essential to successful HIV/AIDS prevention and treatment.

Finally, there were organizations that refused to sign the pledge because they believed work with sex workers was essential to HIV/AIDS efforts. The United Nations (UN) recognizes that criminalizing sex work can lead to higher rates of HIV and therefore encourages programs that promote access to HIV prevention, treatment, and care, create supportive environments, and reduce vulnerability (CHANGE, 2010). The BBC World Service Trust, which worked on anti-AIDS efforts in Tanzania radio dramas, phone-ins and public service advertisements, refused to sign the pledge (Guardian, 2006). None of their work dealt directly with sex workers, but the U.S. terminated funding because some programs mentioned prostitution non-judgmentally. Others, including DKT International and Alliance for Open Society International, have gone so far as to challenge the pledge in U.S. court (CHANGE, 2008).

I have not found sweeping national policy changes regarding work with commercial sex workers in PEPFAR focus countries. The lack of clear guidelines on what activities are permitted and forbidden under the pledge has made tracking changes difficult. Some organizations have chosen to sign the pledge and end all activity with prostitutes and sex workers, to the detriment of HIV prevention and treatment efforts. Other groups have signed the pledge, but do not appear to have made substantial adjustments to their activities. Finally, there are organizations that have refused to sign the pledge, and a few that have challenged it in court. The variety of responses indicates that U.S. conditionality regarding the APP has not been successful because there have not been consistent nation-wide adjustments in policies toward prostitutes and sex workers.

POLICY THREE: MEN WHO HAVE SEX WITH MEN

Official PEPFAR Stance

PEPFAR did not include an official guidance statement on men who have sex with men (MSM) in 2003. The Leadership Act only mentions MSM as part of a greater strategy of providing condoms to at-risk populations; there are no stipulations about the legality of same sex activity in focus countries. Figure 7 shows that OGAC has begun to develop a stance on MSM since 2008.

Figure 7 - Timeline of PEPFAR Stance on Men Who Have Sex with Men

Year	Legislation	PEPFAR Stance
2003	United States Leadership Act Against HIV/AIDS, Tuberculosis, and Malaria Act	*"PEPFAR funds may be used to target at-risk populations with specific outreach, services, comprehensive prevention messages, and condom information and provision. The guidance defines at-risk groups as: commercial sex workers and their clients, sexually active discordant couples or couples with unknown HIV status, substance abusers, mobile male populations, men who have sex with men, people living with HIV/AIDS, and those who have sex with an HIV-positive*

		partner or one whose status is unknown."
2008	Tom Lantos and Henry J Hyde United States Global Leadership against HIV/AIDS, Tuberculosis and Malaria Reauthorization Act	*PEPFAR funds can be used to provide "assistance for appropriate HIV/AIDS education programs and training targeted to prevent the transmission of HIV among men who have sex with men" and to "evaluate the effectiveness of prevention efforts among men who have sex with men, with due consideration to stigma and risks associated with disclosure."*
2011	Technical Guidance on Combination HIV Prevention	"*The use of PEPFAR funds should be coordinated with the use of funding from other sources to increase evidence-based coverage, intensity and scale of HIV prevention efforts for MSM."*

Sources: (OGAC, 2004, p. 8) (Congress, 2008, p. 33) (OGAC, 2011, p. 17)

Policy Trends

Men who have sex with men have suffered because of PEPFAR's emphasis on abstinence and faithfulness and the anti-prostitution pledge. Condom distribution in focus countries has fallen, which has negative implications for HIV prevention among MSM. In addition, the loss of funding to organizations that treat sex workers has eliminated sources of service and treatment for MSM, who often comprise another of the organization's target groups. MSM also constitute a cohort of the sex worker population that is marginalized by the APP.

Laws regarding same sex activity in the focus countries have not changed significantly since 2001, as would be expected if changes were tied to PEPFAR. Tables 2 and 3 detail laws in these countries as of 2007. Eighty-six U.N. states criminalize consensual same-sex acts among adults. In 21 of these countries, consensual same-sex acts are punishable by more than 10 years in prison; in seven these acts are punishable by death (UNAIDS, 2009). South Africa became the first country in the world to include protection of gay and lesbian rights in their constitution in 1996, but this occurred significantly before the creation of PEPFAR funding, making it unlikely that it was related.

Nowhere in the Leadership Act is it stated that PEPFAR funds should be withheld from organizations that work with MSM. However, an interview with a scientist at the National Institute of Health (NIH), "confirmed that some program staff have been telling grantees to reword grants to avoid terms such as: 'needle exchange,' 'abortion,' 'condom effectiveness,' 'commercial sex workers,' 'transgender,' and 'men who have sex with men'" (Johnson, 2007, p. 83). In part because the U.S. government remained relatively silent on the issue of MSM during this time, there appeared to be an understanding among PEPFAR implementing agencies not to publicly discuss these activities. The NIH scientist validated concerns that removing certain controversial phrases could increase chances of receiving funding. In addition, according to Cary Johnson, "while there is no policy against funding LGBT organizations or programs for same-sex practicing people, and many LGBT groups outside of Africa receive U.S. government funding, U.S. government field staff responsible for the implementation of PEPFAR in Africa are at times confused by the policies and tend to make overly conservative interpretations in order to remain within the ambiguous guidelines" (Johnson, 2007, p. 82).

In 2011, OGAC issued technical guidance about combination prevention programs for

MSM, citing studies by a variety of international organizations that stress the importance of working with MSM in the fight against HIV/AIDS (OGAC, 2011). The guidance focuses on different aspects of prevention programs, but does not mention issues of legality of MSM in focus countries. It is too soon to tell if the guidance on MSM will lead to an increase in prevention programs for this population, but there have not yet been changes in policy regarding the legality of MSM or targeted HIV/AIDS programs that can be attributed to PEPFAR.

DISCUSSION

Figure 8 - Section One Summary

Policy	PEPFAR Stance	Implementation Level	Focus Country Policy Trends
Abstinence, Be Faithful, Use Condoms (ABC)	Countries should use an ABC approach to prevention that emphasizes abstinence and be faithful programs over condom use.	National government	• Countries have implemented ABC approaches to prevention, with greatest emphasis on abstinence • Spending between 40 and 60 percent of prevention funding on abstinence and faithfulness programs
Anti-Prostitution Pledge (APP)	Organizations must have a policy explicitly opposing prostitution and sex trafficking.	Organization-by-organization	• No national policy shifts • Most organizations have chosen to sign a pledge, but because of weak monitoring and sanctioning, there have not been strong trends away from working with prostitutes and sex workers • Some organizations have refused to sign the APP
Men Having Sex with Men (MSM)	No official policy.	Either	• No national policy shifts • NGOs have taken government's place providing care to MSM

When policies were explicitly stated in PEPFAR and implemented by the national government, there were visible trends of policy change within the focus countries. However, when PEPFAR did not include a condition and U.S. policy preferences were unknown, there were no visible trends of policy change within the focus countries.

The ABC approach was adopted at a national level and disseminated to organizations conducting HIV prevention and treatment work. On the other hand, the anti-prostitution pledge applied on an organization-by-organization basis. While there have been strong national policy trends towards an ABC approach with an emphasis on abstinence and be faithful programs, shifts resulting from the anti-prostitution pledge are more difficult to track. The language of the APP was very ambiguous, so it is possible that conditions implemented on an organizational level can have a greater effect if they are stated clearly and monitored and enforced more consistently.

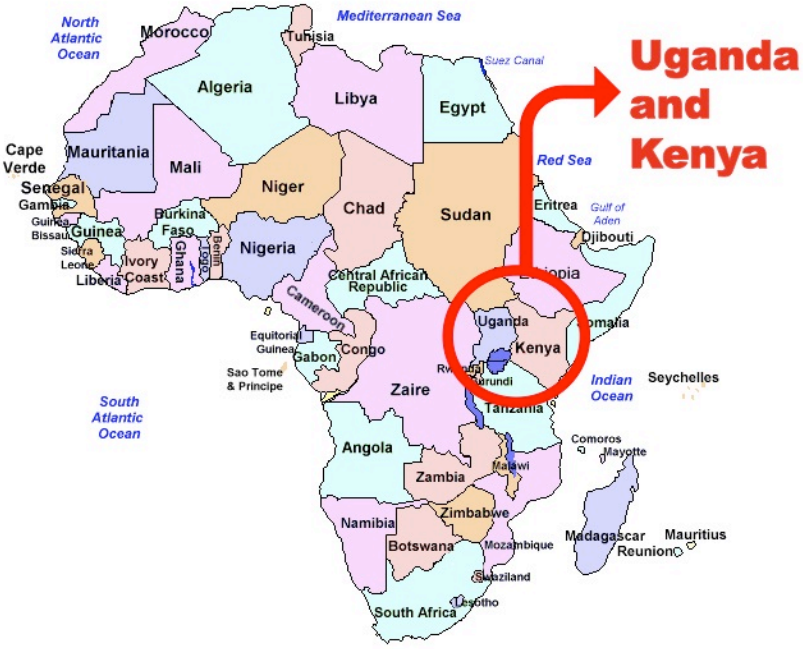
For conditionality to be relevant, there must be a condition to which the recipient

government can react. The original PEPFAR legislation did not include any guidance about MSM, and accordingly, there have not been national policy shifts related to MSM activity. Conditionality can be effective but appears to be most successful when explicit requirements are stated that target national policies.

CASE STUDIES

This section offers an in-depth analysis of PEPFAR implementation in Uganda and Kenya.

Figure 9 - Map of Uganda and Kenya



UGANDA

Ugandan policy regarding HIV prevention programs has changed to reflect U.S. preferences since the implementation of PEPFAR in 2004. After PEPFAR implementation, Uganda's national program moved away from the balanced and comprehensive approach that had been so successful in the 1990s and placed a greater emphasis on abstinence and faithfulness at the expense of condom promotion and other prevention efforts.

Uganda responded to the onset of the HIV epidemic in the 1990s faster than its neighbors. High levels of international aid facilitated the creation of a national infrastructure to fight AIDS, and allowed Uganda to place a high priority on local and decentralized health education programming, while still providing funding to other necessary interventions (Wendo, 2003).

Possible Explanations for the Drop in HIV Infection Rates

PEPFAR officials used Uganda's drop in HIV infection rates to justify an earmark on abstinence spending. However, this does not support expert opinions that attribute a large part of Uganda's success to a balanced and multi-faceted approach and conclude that ABC as it is included in PEPFAR is an entirely American invention. There is "nothing in the demographic or historical record suggests that 'abstinence education' as conceived by the United States is what contributed to Uganda's HIV prevention success" (Brocato, 2005, p. 152).

From 1992-2000, national HIV prevalence in Uganda fell dramatically, peaking at 15 percent in 1991 and dropping as low as 5 percent by 2001 (Hogle et al., 2002). During this time period, rates of abstinence and condom use both increased. The percentage of women abstaining from sex in Uganda grew from 18 percent to 31 percent between 1990 and 1995, and then remained constant (Blum, 2004). Male abstinence on the other hand, did not show a significant rise. The Demographic and Health Survey (DHS) also found a significant increase in the consistent use of condoms during sexual activity among both females (20 to 39 percent) and males (35 5o 59 percent) between 1995 and 2002 (Blum, 2004).

Another explanation for the sudden drop in HIV prevalence is "natural die-off syndrome:" that people who developed AIDS in the 1980s died off because there was virtually no access to treatment (Avert, 2011b). The limited availability of ARVs at the time led to an understanding of AIDS as a death sentence, which generated a high level of fear among the population. This attitude may have facilitated and necessitated political action. However the natural die off theory alone does not explain the fall in prevalence because other African countries had similar epidemics and did not see declines in prevalence. Other factors that played a role in Uganda's success are featured in Figure 10.

Figure 10 - Possible Reasons for Uganda's Success

Number	Possible Reason
1	Natural die-off syndrome
2	Intense and committed Presidential and governmental support
3	Coordinated response by state, non-state, and private actors
4	Decentralized and community-based education programs
5	Changes in behavior including delayed age of first intercourse, reduced frequency of multiple partners, and increased condom use
6	A well-built monitoring system that was used to strengthen interventions
7	Strong financial backing from international donors
8	Voluntary counseling and testing services
9	Support from religious leaders and faith-based organizations
10	Early response that gave it head start in fight against epidemic

Sources: (Hogle et al., 2002; Slutkin et al., 2006)

Given the number of factors contributing to Uganda's success, it is surprising that the U.S. only referenced the power of abstinence and be faithful programs when citing the country as an example in PEPFAR formulation. At a time when other African leaders were doing their best to deny and/or ignore the existence of the HIV/AIDS epidemic, Uganda was unique in its willingness to discuss the issues with such a degree of openness. As part of the national AIDS

program, Uganda developed a far-reaching health education campaign that provided information at national, local and individual levels. In addition, as stated in the Leadership Act, "President Yoweri Museveni spoke out early, breaking long-standing cultural taboos, and changed widespread perceptions about the disease" (Congress, 2003, pp. 4-5). President Museveni took care to always include a discussion of HIV/AIDS in official speeches (Slutkin et al., 2006). Prominent musician Philly Lutaaya, who publicly declared his AIDS status and later died from the disease, also helped raise public awareness and decrease stigma (Moore & Hogg, 2004).

President Museveni and his wife began reemphasizing the importance of abstinence and faithfulness as early as 2001. The timing of this shift put Uganda in an excellent position to qualify for PEPFAR funding, as their programs had already begun to reflect American policy goals. The Ugandan First Lady played a particularly visible role in this shift by organizing a march for virginity and presenting to the U.S. Senate Committee on Foreign Affairs, saying, "My experience has led me to conclude that, when dealing with young people especially, it is vitally important to emphasize Abstinence as the first line of defence, so to speak" (CFR, 2003, p. 28). While the history of promoting abstinence in Uganda is difficult to follow, there are clear cultural indicators that faithfulness was not a traditional Ugandan value. Affairs were incredibly common and President Museveni himself was well known for straying from his wife (Epstein, 2007).

Since PEFPAR implementation, Uganda has directed funding to abstinence and be faithful programs at the expense of condom distribution. Teachers were told not to discuss condoms in school; billboards promoted abstinence and discouraged condom use, and funding requests for funding for abstinence only programming were given more favorable consideration (Avert, 2011b). The money available to those who agreed with the abstinence and faithfulness led both faith based organizations and the national government to shift priorities in hopes of receiving high levels of funding (Avert, 2011b).

The Debate Over Condoms

The debate over condoms paints an interesting picture of the relationship between American policy preferences and Ugandan policy reactions. In the early phases of the epidemic, the Ugandan Ministry of Health did not embrace condoms because they were inherently unpopular and the administration was wary about placing too much trust in a single measure.

In the 1990s, USAID and international organizations supported condoms as a necessity to combat HIV/AIDS. In response, Uganda created and implemented condom social marketing campaigns, like comic books where the characters use condoms (Epstein, 2007). By late 1990s, condom usage in Uganda had increased significantly. A study by Singh et al. found that condom use in Uganda was less than 1 percent before 1989 and by 1995 had increased to approximately 15 percent among unmarried men and women (Slutkin et al., 2006). Condoms were by no means universally accepted or used, but government sponsored social-marketing programs indicate recognition of the importance of emphasizing condom use. This may also represent an understanding that to stay eligible for international funding, Uganda needed to align its HIV/AIDS efforts with the international consensus of what worked.

In the early 2000s, Ugandan national attitude towards condoms shifted again, this time away from their use and effectiveness. This can be confirmed by their disappearance from public advertisements, reduction in contracts and sales for companies like Population Services International, the withdrawal of government sponsored condoms from the public sphere, and a collection of speeches by President Museveni expressing strong disapproval of condoms

(Economist, 2005). At the 2004 Bangkok International AIDS Society Conference, President Museveni thanked President Bush for PEPFAR funding, adding that condoms are not optimum, necessary, or even practical, as drunken men will not use them anyway (Susser, 2009). This speech, given the year PEPFAR began giving out funding, marked a break with President Museveni's previous support for condoms. The same year, Museveni cited quality concerns as justification for a national recall of condoms. By 2005, there was a severe shortage of condoms, and when they were available, they were often unaffordable (Brocato, 2005).

In 2002, President Museveni launched the Presidential Initiative on AIDS Strategy for Communication to Youth (PIASCY), which became the main program for communicating information about sexuality and HIV to youth populations. The program provided basic information about sexual health, ways to resist pressure to have sex, condom use, and human rights. The U.S. extended PEPFAR funding to PIASCY but required critical revisions including the removal of important HIV/AIDS information and the addition of misinformation about the efficacy and practicality of condoms (Brocato, 2005). One falsehood was the claim that condoms contain tiny pores through which HIV pathogens can travel (HRW, 2005).

Uganda was strongly rewarded for its shift in policy priorities. In 2007, Uganda only expected $235 million in aid, as is reflected in the budget in their country plan, but received $258 million, a clear signal of positive conditionality by the U.S. government (Susser, 2009). Stephen Lewis, a UN Special Envoy for HIV/AIDS in Africa, was quoted saying, "At the moment, the government of Uganda appears to be under the influence of the American policy through the presidential initiative of emphasizing abstinence far and away over condoms" (BBC, 2005, p. 1). Uganda has made concessions to stay eligible for PEPFAR funding. There have been clear national policy shifts away from a comprehensive strategy for combating AIDS towards a targeted prevention effort focusing on abstinence and be faithful programs. Shifting focus towards U.S. policy preferences has actually been detrimental because in 2009 the number of new HIV infections exceeded the number of annual AIDS deaths, raising fears that the HIV prevalence rate in Uganda had begun to rise (UNAIDS, 2010b).

KENYA

Kenya has a severe HIV epidemic with 6.3% of the population – approximately 1.5 million people – living with HIV as of 2009. There were 80,000 AIDS-related deaths in 2009 alone (UNAIDS, 2011). Kenya's prevalence rate dropped 5.1% between the late 1990s and 2007, a sign of significant progress (UNAIDS, 2010b). Despite the controversy over prevention spending requirements, responses to PEPFAR treatment achievements have been very positive. Both the donor and recipient governments agree on the importance of increasing access to treatment, which PEPFAR funding and support has helped make a reality.

Background On Kenya's HIV/AIDS Policy

Kenya is the second largest recipient of PEPFAR funding and is considered a successful and sophisticated program. In fact, it has served as a model for other countries' program development (Tomlinson, 2006). The National AIDS Control Council (NACC), established by President Mwai Kibaki in 1999, "provides policy and a strategic framework for mobilizing and coordinating resources for the prevention of HIV transmission and provision of care and support to the infected and affected people in Kenya" (NACC, 2011). In practice, this program oversaw all HIV/AIDS programming in Kenya. The NACC created and implemented multiple versions of

the Kenya National HIV and AIDS Strategic Plan (KNASP), the most recent of which, KNASP III (2009-2013), spells out four goals to be achieved by 2013. These are (1) reduce the number of new infections by at least 50% (2) reduce AIDS-related mortality by 25% (3) reduce HIV-related morbidity (4) reduce the socio-economic impact of HIV and AIDS at the household and community level (NACC, 2011). All relevant stakeholders collaborated to create KNASP III.

PEPFAR Implementation and Treatment Results

The U.S. government worked with both the NACC and the National AIDS and Sexually Transmitted Disease Control Programme (NASCOP) of the Ministry of Health. PEPFAR funding to Kenya increased significantly from $92.5 million in FY2004 to $534.8 million in FY2008 (OGAC, 2008). In response to the 2008 PEPFAR funding announcement, Finance Minister Uhuru Kenyatta said the money, "came with no conditions apart from ensuring it is utilized properly" (Shiundu, 2009, p. 1). This stands in direct contrast to the reactions of Uganda officials who saw clear conditions attached to the PEPFAR aid. Kenya had a national AIDS program in place prior to 2003, but it was less comprehensive and successful and therefore more flexible than the one present in Uganda.

In June 2006, President Kibaki waived all fees for ARVs in public hospitals and clinics (BBC, 2006), an announcement the Kenyan government was only able to make after receiving additional PEPFAR support. As of 2008, PEPFAR funded 70 percent of the free ARVs distributed by the Kenyan government (Anonymous, 2008). One study estimates that since 2003, the U.S. has increased the number of Kenyans on antiretrovirals from 343 to 70,000 (Tomlinson, 2006, p. 8). In addition, PEPFAR treatment funding supported the development of new clinical sites in underdeveloped areas and harmonized efforts aimed at scaling-up ARV access with international partners (OGAC, 2008).

From FY2004 until FY2009, Kenya received a total of $1.9 billion to support comprehensive HIV/AIDS prevention, treatment and care programs (OGAC, 2010a). Figure 11 below shows the breakdown of PEPFAR results for FY 2010.

Figure 11 - PEPFAR Results in Kenya FY2010

PEPFAR Supported Action	Number of People
Individuals receiving antiretroviral treatment	410,300
HIV-positive individuals who received care and support (including TB/HIV)	1,384,400
Orphans and vulnerable children (OVCs) receiving support	673,000
Pregnant women with known HIV status receiving services	1,177,400
HIV-positive pregnant women receiving antiretroviral prophylaxis for PMCT	70,400
Individuals receiving counseling and testing	5,478,100
Estimated infant HIV infections averted	13,376

Source: OGAC. (2010a). Partnership to Fight HIV/AIDS in Kenya.

The lack of resources for Kenya's national HIV/AIDS program made it more open to accepting PEPFAR conditions because it needed funding to provide treatment. By comparison, Uganda had been receiving international support for its HIV/AIDS program for years, enabling the formation of a comprehensive program. Kenyan officials may therefore have been more willing to accept PEPFAR conditions and it may have been easier for them to do so. For example, PEPFAR funding allocated in 2008 targeted treatment efforts, with a goal of reaching 270,000 patients, including purchasing ARVs for 190,000 patients (Shiundu, 2009). Before PEPFAR, Kenya's

treatment program could only provided ARVs to 5% of people in need. (AVERT, 2011a).

The transitional status of Kenya's government also weakened resistance to PEPFAR conditions. President Kibaki's relatively new government may have wanted to use PEPFAR funding and the positive publicity that came from saving lives to strengthen its position domestically. This provided an incentive to focus on the positive aspects of PEPFAR rather than discuss controversial requirements. President Museveni had been in power longer and was well established as the leader of Uganda, so he may have been in a better place to challenge U.S. policy priorities. President Kibaki was still trying to define himself as a leader, and taking a position against a U.S. policy that would save Kenyan lives probably would not have been looked upon favorably by the public.

Kenya provides an interesting case study about the way that framing can affect the domestic and international conversation about a policy. By focusing on treatment programs, a well-regarded element of PEPFAR, local media and officials were able to emphasize successes without mentioning controversial prevention efforts. More recently, there have been heated debates about the sustainability of these treatment programs. The financial crisis has placed international aid budgets in a precarious situation. Therefore, it is very important for countries to work towards sustainability, starting by increasing their levels of contributions relative to international donors.

DISCUSSION

Uganda and Kenya provide interesting contrasts to the ways focus country governments reacted to PEPFAR. Both show policy priorities shifting towards U.S. preferences, but the manner in which this shift occurred differed between the two countries. Uganda has a history of changing national priorities to remain an attractive candidate for international aid, which can be seen by Museveni's constantly changing position on condoms. Uganda's HIV/AIDS programs were very established, so implementing PEPFAR policies required significant adjustments that were difficult to put into operation. Kenya's national HIV/AIDS plan was not as established, due in part to a severe lack of funding, making it was easier to incorporate PEPFAR priorities into their national plan.

Another important distinction is the degree of presidential leadership present in each country. President Museveni seized power through a military rebellion in 1986, was directly elected in 1996, and has held power ever since. Museveni established himself early as a strong leader committed to the fight against HIV/AIDS. By comparison President Kibaki was elected in December of 2002 by a coalition of opposition parties. He had not proven his commitment to fighting the epidemic, and may have used cooperation with the U.S. and PEPFAR to signal this dedication to his domestic population and the international community. Both Uganda and Kenya changed national policies to qualify for PEPFAR funding, but because their Presidents had varying degrees of political power, PEPFAR was framed differently in the national medias. In Kenya, newspapers focused on the amount of funding provided by PEPFAR and the number of people who would have access to treatment. Ugandan newspapers included positive reviews of PEPFAR, but there were more articles discussing the controversial and conservative nature of the required prevention efforts.

CONCLUSION

PEPFAR was created as an emergency plan to respond to the overwhelming and tragic HIV/AIDS epidemic. PEPFAR drastically increased access to treatment and care programs, although prevention efforts have become controversial because of the emphasis on abstinence and the anti-prostitution pledge. I found that focus countries shifted policies toward PEPFAR policy preferences. U.S. aid was most successful in shifting recipient countries' policies when it explicitly stated the policy preference that needed to be changed on a national level. When PEPFAR included a requirement that was enforced on an organization-by-organization level, there were some shifts on the ground, but not on a national scale. Finally, when PEPFAR did not mention a policy, there were no visible changes related to PEPFAR implementation. In order for conditionality to be effective, there must be a condition for the recipient country to react to. Because there were no specific requirements regarding MSM in the original PEPFAR legislation, it is not surprising that focus countries did not make policy adjustments.

Uganda became the poster child for the ABC approach, yet its pre-PEFPAR national AIDS program was more comprehensive and extensive than U.S. policy makers suggested. Upon receiving PEPFAR funding, Uganda shifted its focus towards an AB approach with C as a last resort. Kenya had a national AIDS program in place prior to 2003, but because of a lack of funding and a transitioning government, the program was more open to adjustments towards U.S. prescriptions. President Kibaki wanted to use PEPFAR funding to prove his commitment to the fight against HIV/AIDS. Despite the differing political settings, both countries adopted U.S. policy preferences.

This paper focuses on the first phase of PEPFAR, which authorized $15 billion dollars to be spent over five years (2004-2008). In 2008, Congress reauthorized the Leadership Act, approving up to $48 billion dollars to be spent over the next five years on HIV/AIDS, tuberculosis, and malaria (Congress, 2008). The reauthorization added an additional 15 focus countries and incorporated PEPFAR as the cornerstone of President Obama's Global Health Initiative (GHI). This broader program built on the positive results from PEPFAR and placed a strong emphasis on sustainability. Figure 12 lists PEPFAR's goals during its second phase.

Figure 12 - PEPFAR II Goals (2009-2014)

1. Transitioning from an emergency response to promotion of sustainable country programs
2. Strengthening partner government capacity to lead the response to this epidemic and other health demands
3. Expanding prevention, care, and treatment in both concentrated and generalized epidemics
4. Integrating and coordinating HIV/AIDS programs with broader global health and development programs to maximize impact on health systems
5. Investing in innovation and operations research to evaluate impact, improve service delivery and maximize outcomes

Source: Congress, U. S. (2008). Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 *110th Congress 2d Session*. Washington D.C.: H.R. 5501.

The goals above indicate a shifting emphasis toward health systems strengthening for sustainability. The Re-Authorization Act eliminated the earmark on prevention funding for abstinence-only programs. It also authorized funding for opportunistic infections and nutrition

programs and allowed HIV positive people into the U.S. (regardless of their citizenship status). The anti-prostitution pledge remained until July 6, 2011, when a federal appeals court ruled that the "compelling speech as a condition of receiving a government benefit cannot be squared with the First Amendment" (AOSI, 2010).

Recent Developments

On November 8, 2011, Secretary of State Hillary Rodham Clinton announced that "an AIDS-free generation would be one of the greatest gifts the United States could give to our collective future" (Clinton, 2011, p. 1). Clinton emphasized the importance of combined prevention and announced a $60 million commitment by the U.S. government to scale-up combination prevention in four countries in sub-Saharan Africa. The struggle against HIV/AIDS has been difficult and controversial, but Clinton expressed pride at what the U.S. has been able to accomplish as a leader in the fight against HIV/AIDS.

On December 6, 2011, President Obama released a memorandum titled, "International Initiatives to Advance the Human Rights of Lesbian, Gay, Bisexual, and Transgender Persons," which says that the U.S. will begin using foreign aid to promote gay rights abroad. Specifically, American agencies engaged in work abroad should "combat the criminalization by foreign governments of LGBT status." President Obama does not specify how U.S. agencies will do this, but the memorandum suggests the use of aid conditionality. Based on the findings of this paper, I propose that attaching an explicit condition to U.S. foreign aid that countries cannot have national policies criminalizing LGBT status would be an effective way to spark policy change. However, given the highly contested nature of the issue and how deeply engrained some of the cultural values are, it may be too soon for such a drastic approach.

Aid conditionality can create policy change, but is problematic when it interferes with recipient government sovereignty, incentivizes the appearance of policy change rather than the creation of long-term modifications, and reduces pressure on recipient country policymakers for reform (Neumayer, 2003). As PEPFAR has evolved from an emergency response toward the development of sustainable and integrated health systems, recipient government ownership has become increasingly important. Given the current state of the international economy, recipient governments will need to play a more active role in orchestrating and financing their national responses to HIV/AIDS. International funding for HIV programs fell from $8.7 billion to $7.6 billion in 2010 after years of increased support. On World AIDS Day President Obama pledged an addition $50 million to be used for HIV/AIDS clinics and drug assistant schemes, but stronger political and financial will is necessary to achieve an "AIDS free generation" by 2015. PEPFAR has shown that health related foreign aid initiatives are possible and can catalyze policy change abroad, but also cautions against placing international and domestic political calculations above the needs of those directly affected by the disease.

APPENDIX

Table 1 - PEPFAR Funding to Focus Countries FY2004 - FY2006

	FY 2004	FY 2005	FY 2006
Botswana	$24.377,740	$51,838,118	$54,925,022
Côte d'Ivoire	$24,323,367	$44,375,766	$46,608,183
Ethiopia	$47,986,420	$83,731,420	$122,957,747
Guyana	$12,200,205	$19,392,318	$21,727,116
Haiti	$28,053,144	$51,785,021	$55,606,667
Kenya	$92,581,066	$142,937,153	$208,269,879
Mozambique	$37,388,347	$60,217,090	$94,418,869
Namibia	$24,273,686	$42,518,508	$57,288,878
Nigeria	$70,925,082	$110,250,097	$163,607,749
Rwanda	$39,300,461	$56,909,487	$72,102,434
South Africa	$89,390,423	$148,187,427	$221,539,430
Tanzania	$70,628,839	$108,778,095	$129,967,925
Uganda	$90,757,425	$148,435,327	$169,875,461
Vietnam	$17,354,885	$27,575,000	$34,069,000
Zambia	$81,786,638	$130,088,605	$149,022,153
Total	$751,327,728	$1,110,183,494	$1,601,986,513

Source: OGAC. (2006). Action Today, A Foundation For Tomorrow: Second Annual Report to Congress on PEPFAR. Washington, D.C.: Office of the United States Global AIDS Coordinator.

Table 2 - Government Laws Regarding Men Who Have Sex With Men, Sex Workers, and Transgender People

Country	Laws that pose obstacles for men who have sex with men	Laws that pose obstacles for sex workers	Most men who have sex with men have access to risk reduction	Most sex workers have access to risk reduction
Botswana	No	No	N/A	N/A
Côte d'Ivoire	No	No	Agree	Agree
Ethiopia	No	No	Don't Agree	Agree
Guyana	Yes	No	Agree	Agree
Haiti	No	No	Don't Agree	Agree
Kenya	Yes	Yes	Agree	Agree
Mozambique	Yes	Yes	N/A	Don't Agree

Namibia	N/A	N/A	N/A	No Data
Nigeria	Yes	Yes	Don't Agree	Agree
Rwanda	No	Yes	Don't Agree	Don't Agree
South Africa	No	Yes	Don't Agree	Don't Agree
Tanzania	No	No	N/A	N/A
Uganda	No	No	N/A	Don't Agree
Vietnam	No	No	Agree	Agree
Zambia	Yes	Yes	Don't Agree	Agree

Source: UNAIDS. (2011). AIDSinfo Country Fact Sheets. from http://www.unaids.org/en/dataanalysis/tools/aidsinfo/countryfactsheets/

Table 3 - Laws Prohibiting Same Sex Activity in Focus Countries

Country	Male/Male Status	Female/Female Status	Law
Botswana	Illegal	Illegal	Chapter 08:01 PENAL CODE
Côte d'Ivoire (2010)	Legal	Legal	Homosexual acts have never been criminalized
Ethiopia	Illegal	Illegal	The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclomation No. 414/2004
Guyana	Illegal	Legal	Laws of Guayana. Chapter 8:01
Haiti (2010)	Legal	Legal	
Kenya	Illegal	Legal	Cap. 63 Penal Code
Mozambique	Illegal	Illegal	Penal Code of September 16, 1886 (Inherited from the Portuguese colonial era)
Namibia	Illegal	Legal	Sodomy or "Unnatural sex crime" is prohibited as a common law offence. It appears to cover only sexual acts between men.
Nigeria	Illegal	Legal*	Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria 1990 - Punishable by death in some states
Rwanda (2010)	Legal	Legal	Homosexual acts have never been criminalized
South Africa (2010)	Legal	Legal	
Tanzania	Illegal	Legal*	Penal Code of 1945 (As amended by the Sexual Offences Special Provisions Act, 1998)
Uganda	Illegal	Illegal	The Penal Code Act of 1950 (Chapter 120)
Vietnam	Legal	Legal	
Zambia	Illegal	Legal	Volume 7 1995 Edition (Revised) THE PENAL CODE ACT CHAPTER 87 OF THE LAWS OF ZAMBIA

Source: Ottosson, D. (2007, 2010). State-Sponsored Jomophobia: A world survey of laws prohibiting same-sex activity between consenting adults. *The International Lesbian, Gay, Bisexual, Trans and Intersex Association*.

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