THE HIV/AIDS AND HUMAN RIGHTS IN TANZANIA REPORT

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Preface

HIV/AIDS has remained the most challenging health problem of our time, and its impact reveals into social and economic facets. HIV/AIDS has raised some complex medical issues, as well as legal and ethical questions, including human rights concerns. This has therefore made LHRC to decide that the pandemic requires a comprehensive solution that aims to tackle medical questions as well as legal, human rights and ethical issues associated with it.

AIDS stands for Acquired Immune Deficiency Syndrome. Immune is the defense system of the body, which helps to fight sickness. Normally this system fails to perform well in AIDS. AIDS is caused by HIV (Human Immuno-deficiency Virus), which attacks the body immunity (defense) system and thus causing the disease. There is a relationship between human rights and HIV/AIDS as both are concerns of the human beings.

All Tanzanians are guaranteed basic human rights by the Constitution and other laws of Tanzania as well as international human rights instruments. As regard to the Constitution of the United Republic of Tanzania, in which the Bill of Rights is enshrined, various human rights are analysed; some of them are: rights to life, equality among human beings, equality before the law, personal freedom, privacy and personal security, right to work and just remuneration (just to mention a few). These rights are assured to all citizens of Tanzania regardless their age, sex, living condition, etc. where PLWHA are amongst.

But unfortunately, PLWHA suffer different forms of Human Rights violations, ranging from discrimination, unequal treatment, lack of support from partners, mistreatment in the hospitals/heath centres, disrespect from the family, friends and society in general and alienation by them as well. Ignorance has been central in the denial of people's right to basic information. When coupled with the thrilling poverty, ignorance stays at the centre of HIV/AIDS pandemic from its spread, contraction and the resulting stigmatization. People's basic rights and ability of securing basic services and options in their surrounding environment in the process of curbing the pandemic has become quite an issue.

PLWHA need regular and special care: counseling on health life, how to avoid stigma, how to avoid further spread of the virus and education on the basic rights and how to acquire them. This is very important to hearten and strengthen them. But, LHRC insists that it is very important that professional ethics and standards should be followed in provision of this care to them and others who may wish to access regular care from the qualified personnel.

This research report is therefore intended to contribute to the on-going efforts to combat the pandemic, since it is our hope that human rights are basic to any reaction towards HIV/AIDS. We believe mainstreaming of human rights is imperative to enhance the lives of the PLWHA. Through this research, the LHRC is advocating for the human rights by HIV/AIDS and calling upon the government to continue fulfilling its responsibilities towards these people.

The report can also be used by other stakeholders in programming so as to integrate human rights principles into various responses towards the pandemic.

Helen Kijo-Bisimba,
LHRC, Executive Director.
February 2005.

LIST OF ABREVIATIONS

AIDS	-	Acquired Immuno - Deficiency Syndrome
ANCs	-	Antenatal Clinic Attendees
ARVs	-	Antiretrovirus Drugs
AZT	-	Azidothymidine (Zidovudine)
HIV	-	Human Immuno Deficiency Virus
LHRC	-	Legal and Human Rights Centre
MNC	-	Multi-National Corporation
NACP	-	National AIDS Control Programme
NGO	-	Non Governmental Organization
PLWHA-	People Living With HIV/AIDS	
SHDEPHA+	-	Service, Health and Development for PLWHA
TACAIDS	-	Tanzania Commission for AIDS
TAWLA	-	Tanzania Women Lawyer's Association
UNAIDS	-	The Joint United Nations Programme on HIV/AIDS
UNDP	-	United Nations Development Programme
UNHCR-	United Nations High Commission for Refugees	
WHO	-	World Health Organization
WTO	-	World Trade Organization

CHAPTER ONE

INTRODUCTION

This report investigated the relationship between human rights practices and the HIV/AIDS crisis in Tanzania. Increasingly, international organizations such as UNAIDS and UNHCR are advocating for a 'human rights approach to HIV/AIDS'. Initial research indicates that human rights violations hamper both efforts to prevent HIV and the struggle to treat the disease. People living with HIV/AIDS (PLWHA) form a vulnerable and stigmatized social group whose human rights must be vigilantly guarded.

The LHRC researched human rights abuses relating to HIV/AIDS in Tanzania. This was achieved through interviews with a large number of PLWHA, discussions with experts in human rights and HIV/AIDS, and references to existing research. Primary research was conducted with the aim of understanding the nature and extent of HIV/AIDS abuses, and together with secondary data, to identify the sources of these problems.

In sum, the report assesses the nature and extent of HIV/AIDS related human rights abuses in Tanzania; determines the sources and implications of these abuses; advocates for immediate and effective remedies to these abuses and executes a lobbying and media relations campaign to this end.

Goals

This report sets out to accomplish the following five main goals:

Firstly is to improve the quality of life of PLWHA. As it is widely known now, living with HIV/AIDS is the greatest challenge that every person affected by the virus faces. Fighting HIV/AIDS is a struggle enough - these individuals should not have to fight for their basic human rights as well. This report enumerates the rights of PLWHA, catalogues rights violations, and advocates for effective changes to HIV/AIDS policy and practices in Tanzania.

The second goal is to reduce social stigma associated with HIV/AIDS. It has been observed that systemic discrimination and prejudices against PLWHA are entrenched in many government policies today. This affirms the discrimination exerted against those affected by the public at large. Stigma forces individuals to hide the fact of their infection and thus facilitate the spread of HIV/AIDS.

The third goal is to ensure the human rights of the PLWHA. The LHRC has developed a stellar reputation for monitoring human rights abuses and advocating for positive change. No community is more in need of the LHRC's assistance than those affected by HIV/AIDS.

Fourthly the report intends to increase government accountability to PLWHA. Vulnerable communities such as those affected are often brushed aside as minority groups that politicians can afford to ignore. Support must be generated for vulnerable minorities in the general public to stop such an unjust approach of the politicians, who are also in the forefronts of policy making process.

Lastly the report wants to promote HIV/AIDS human rights education and other preventive measures. Working to debunk the rationale behind discriminatory legislation, the report serves as an excellent educational tool to be widely distributed in academia and used as a tool in HIV/AIDS informational workshops. The report is a modest contribution towards the achievement of more sensitivity on issues regarding HIV/AIDS. The report makes specific recommendations for legislative reforms in Tanzania that will be followed by an action plan for lobbying.

Objectives

This report sets out to accomplish the following objectives:

1. To enumerate the human rights of PLWHA and those affected with the pandemic.

2. To discuss reported rights violations of PLWHA.
3. To catalogue Tanzanian statutes, government practices, and legal practices which violate these rights.
4. To compare these deficiencies with the situation regionally and internationally.
5. To advocate for specific legislative and judicial reforms.
6. To discern connections between HIV/AIDS related human rights violations and other sources of violations.

Methodological Issues

This is essentially an analysis of primary data collected through interviews from a total number of five hundred respondents. Interviews were carried out to three categories of respondents including those living with HIV/AIDS, affected parties and service providers in selected regions of the country. The study was conducted in eight randomly selected regions: Dar es Salaam, Mbeya, Arusha, Zanzibar, Kigoma, Mwanza, Kagera and Ruvuma. This afforded the researchers an opportunity not only of having first hand information but also to make systematic observation of the situation on the ground. Whenever possible they documented such observation which could not be captured in the questionnaire that provides a very potentially useful source of information for this report.

Precisely the questionnaire sought to collect the following information:

- **Mode of contracting HIV**
  - . Sexual intercourse
  - . Other
  - . Unknown
- **Mode of prevention available and known to people**
  - . Condom
  - . Abstinence
  - . Sterilized needles
  - . Other
- **Who is likely to be consulted in issues of HIV/AIDS**
  - . Family
  - . Friends
  - . Religious leader
  - . Teacher
  - . Doctor
  - . Spouse/ partner
  - . Nobody
- **Knowledge of the sero status of partner before consent to sex**
- **The consequences of refusing to have sex with the infected person**
  - . Emotional abuse
  - . Estrangement from family
  - . Physical abuse
  - . Expulsion from household
  - . Loss of income
  - . Social alienation
- **Voluntary testing and accessibility to counseling**
- **Affordability of medical care for HIV/AIDS**
- **Access to antiretroviral drugs**
- **Type and agents of discrimination**
- **Awareness of human rights for PLWHA.**

Several problems were encountered when conducting this research. For the most part, PLWHA were reached through organizations that care for them. Some organizations were overly protective of their clients and thought the research would expose them hence refused or hesitated to offer permission to interview

them. Another related problem that had to be dealt with was from PLWHA themselves. Some thought they were being used by money-making researchers and refused to be interviewed (research fatigue). Overall, though, these were minor and isolated problems and could not constitute a major blockade to the research. The research assistants also were dynamic and flexible enough to untangle the problems as they arose.

An extensive library research was done in order to supplement and augment primary data. National statutes, policies, rules and regulations, international treaties, case law, and the media were reviewed to this end.

Literature Review

HIV/AIDS and Human Rights in Tanzania have attracted a number of researches from various institutions as well as individuals. Most of the literature would to a certain degree, address the issue of human rights in Tanzania. Most of them are academically oriented and although they offer recommendations at the end, they can not be an effective tool of advocacy.

The World Bank Country Study[1] recognizes human rights problems associated with HIV/AIDS based on gender. According to the report, women do not have a say or control in sexual affairs. They can not force their partners to wear condoms, nor are they able to refuse to have conjugal relations with them. The report recommends gender-based responses that focus on how the different social expectations, roles, status, and economic power of men and women affect, and are affected by, the epidemic. Equally important is that the report uncovers human rights concerns as key to the fight against HIV/AIDS.

The joint UNHCR/ UNAIDS International Guidelines lay out a general public policy framework for governments to adopt to safeguard human rights while tackling the AIDS crisis. The report emphasizes on human rights issues both as preventive measures against HIV and as a remedy to many of the hardships suffered by PLWHA. They are extremely comprehensive, based upon international human rights principles and leading research on HIV/AIDS. They are general in form, indisputable in content and wide reaching in scope.

In 2002, the Prime Minister's Office published the National Policy on HIV/AIDS. This is the latest in a series of government policies produced since HIV/AIDS first emerged as a national issue in the early 1980s. The document effectively utilizes the International Guidelines as recommendations for public policy change in Tanzania. The policy is comprehensive, adopting a progressive approach to the HIV/AIDS epidemic and making a human rights approach to the problem as its foremost priority. The document has no legal force, being only a suggested framework for government policy. Also, while recognizing the need to adopt the International Guidelines, it does not assess specific deficiencies in Tanzania policy nor provide an audit of HIV/AIDS related rights abuses.

In her study, Kassindi explores the nature and extent of the HIV/AIDS related stigma in Tanzania and tries to give them social significance. She attributes lack of knowledge on the disease to stigma. She offers a lot of examples that over time have been used to refer to HIV/AIDS. Such names as "slim", "umeme (electricity)", "kenchi (rafters)", "ugonjwa wa kisasa (new disease)", "mdudu (insect)", and "ngoma" have been used to describe the patient's body conditions and fatal effects of HIV.[2]

The effect of stigmatization goes very deep and causes a spiraling problem. It is agreed that PLWHA could best be served if they joined groups. This is also a way of exchanging experiences and combating stigmatization together as a lobby. But as Kadokado has observed in his study, even where PLWA form self-help groups, people fear to join them to avoid being labeled and thus sacrificing important services offered.[3]

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[1] See IBRD (2002) Tanzania at the Turn of the Century: Background Papers and Statistics. The World Bank, Washington, D.C. p.112

[2] Kassindi, S., HIV/AIDS Related Knowledge, Attitude and Practice of Health Workers Towards Pregnant Women in Magu District. Unpublished MA Thesis, University of Dar es Salaam, 2000

[3] Kadokado, E., Relationships of Subjective HIV Attributions, Coping Styles and Disclosure Among People Living With HIV/AIDS: A Case of WAMATA Self Help Group in Dar es Salaam, 2001

CHAPTER TWO

WHY HIV/AIDS IS A HUMAN RIGHTS AGENDA

The human rights abuses perpetrated against those infected with HIV are a less visible consequence of the disease in Tanzania. Commonly reported HIV-related human rights violations include discrimination when trying to obtain inheritances, inadequate medical treatment, and mandatory HIV testing and disclosure of HIV status to employers. In addition to tangible human rights abuses, many HIV patients are rejected by their families and communities. These concerns have been recognized by the United Nations as violations of fundamental human rights, including the rights to privacy and health care.

The Joint UN Programme on HIV/AIDS (UNAIDS), which was established in January 1996 as a cooperative program among six UN groups, has identified discrimination based on disability as one of the most serious human rights obstacles for people with HIV/AIDS. Discrimination based on HIV-positive status worsens the misery that HIV/AIDS sufferers already experience and deprives them of their dignity and ability to function as full and productive members of society. One of the most serious and widespread problems is employment discrimination by both private and governmental employers. The loss of a job not only deprives HIV-positive people of their income, which is important particularly to pay for medical treatment, but often terminates the person's medical insurance.

The rights to employment and an acceptable standard of living are identified by UNAIDS as fundamental human rights. Discrimination against a person with HIV/AIDS is criticized as a human rights violation when that person is either completely healthy or able to perform any required task or suffers only moderate health problems and could be easily accommodated by the employer. In addition to the widely experienced problems that exist for many Tanzanians with HIV/AIDS, women who are HIV-positive bear an especially heavy burden. Of the 2.2 million people who are currently infected, 56 percent are female.[4] There are several reasons for this disproportionate infection rate and the particular human rights abuses faced by women with HIV/AIDS. One reason is that Tanzanian men have traditionally been encouraged to engage in extramarital and promiscuous sex. As a result, one infected man may infect several female partners. Another factor is poverty, which forces women to stay with promiscuous, HIV- infected husbands and risk infection for themselves in order to maintain their access to the men's economic resources.

Poverty has also forced large numbers of women to become prostitutes or bar girls. These women run a high risk of contracting the virus because their clients often pay more if the women agree to have intercourse without a condom. A third problem is the low social status of women in Tanzania caused by the patriarchal system observed. This makes it difficult for women to control the sexual attitudes of their male partners or to require men to use condoms.
UNAIDS has recognized the particular vulnerability of women to HIV infection, and the concurrent human rights violations that women experience in countries like Tanzania where the low social status of women often results in economic exploitation and sexual coercion. It has found that discrimination based on sex and social status is a violation of fundamental human rights and those women's human rights are further threatened when their ability to obtain gainful employment is curtailed by gender discrimination and when they are unable to exercise personal autonomy over their bodies and their sexual activities. UNAIDS has stated that this type of status-based discrimination makes women more susceptible to HIV infection and should be combated in order to help slow the spread of the disease.[5]

To many, HIV/AIDS presents an immediate threat to life. With so little knowledge on the medication, acquiring HIV is paramount to a declaration of death. Most people lose hope once they are tested positive.

[4] See ILO Report, 2004
[5] See *The Human Rights Brief:* Centre for Human Rights and Humanitarian Law. Washington College of Law, 1997

A few will want to take their lives rather than waiting for the stigma and discrimination associated with it. A study conducted in Kagera region in early 1990s[6] indicated that the biggest problem associated with HIV/AIDS is orphans and provision of care. Orphans were found to have no food and clothing. They sleep on the floor with only sacks providing bedding. Related to this they had to engage in employment in order to care for younger ones. It goes without saying that they either have to forfeit schooling altogether, or if they do attend school they will automatically perform dismally.

There is a direct link between human rights violation and HIV prevalence among certain groups of people. Studies conducted by various scholars almost conceded to this assertion. According to a study conducted by Kadokado, for example, it was revealed that HIV infection appeared to be more prevalent among socially marginalized people: women, children, prostitutes, and migrants.[7] Women and children have suffered the most as a result of the HIV pandemic due to their increased vulnerability and infringement of their basic rights by use of practices and laws that oppress them.[8]

The Nature, Extent and Implications of HIV/AIDS Related Human Rights Abuses in Tanzania

In this country of 34.5 million at least 2.2 million people are living with HIV/AIDS compared to 37.8 worldwide and 25 million in Sub-Saharan Africa. In Tanzania 56 percent of PLWHA are women compared to 60 percent in Kenya and 65 percent in Uganda.[9]

Tanzania has been struggling to cope with the AIDS crisis since the early eighties. The first cases of AIDS in Tanzania appeared in 1983 among smugglers in the northern district of Kagera. Like most other countries in Sub-Saharan Africa, Tanzania's containment and treatment efforts since the disease's discovery have been hampered by poverty, lack of education, gender inequality, and government inaction.

The HIV/AIDS situation in Tanzania has been labeled a national crisis since 2001. This is perhaps because the impact of HIV/AIDS goes beyond health considerations. On socio-economic considerations, for instance, given the number and age of people directly affected by HIV/AIDS, the virus significantly impacts Tanzanian society and the economy. Economic inefficiencies arise from an ailing workforce, orphaned children, lowered life expectancy, and the costs of treating PLWHA. Certainly, the HIV/AIDS crisis has hampered Tanzania's economic development. The country thus remains one of the poorest in the world. In 2001, Tanzania's GDP per capita was estimated at $ 610 by the Central Intelligence Agency of the United States of America.

The research findings show that many PLWHA suffer various forms of discrimination. Most were separated from their spouses or partners. Other forms of discrimination involve social alienation, emotional abuse, and estrangement from friends. The extent of discrimination of PLWHA is found to be wide and on the increase. Some people had their employment contracts terminated because they were found to be carrying the virus. Those who continued work face one form of discrimination or the other. Struggling against the virus, these individuals are stigmatized and ostracized from mainstream culture. Their rights are abrogated by poorly conceived HIV/AIDS policies. Many employers do not provide medical or financial support to help them access ARVs.

Drugs like AZT and others used to control HIV/AIDS in developed nations are not widely available in Tanzania or other parts of Africa. Doctors often lack even the basic antibiotics needed to control opportunistic infections such as tuberculosis, which affects twenty to forty percent of all Tanzanians with full-blown AIDS. Medical outreach services are not adequately funded or staffed, and, as a result, experts estimate that only one out of every four HIV/AIDS infections is actually reported. AIDS education efforts

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[6] See Mukoyogo, C. M., & William, G. A., AIDS Orphans: A Community Perspective from Tanzania. AMREF, Action Aid, 1993 P. 13-14

[7] Kadokado, op. cit

[8] Barongo, L. R., et al. *The Epidemiology of HIV-1 Infection in Urban Areas, Roadside Settlements, and Rural Villages in Mwanza Region, Tanzania.* AIDS, 6 (12), 1992

[9] ILO Report, 2004

are also insufficient. While most Tanzanians now know what HIV and AIDS are, misconceptions and unfounded fears still exist about transmission of the virus.

There is considerable debate on the sources and implications of human rights abuses accruing from HIV/AIDS. Human rights abuses are a result of many factors in turn. In most cases the social system itself is a major source of human rights abuses.

Ignorance is a critical factor for continuing human rights abuses. By comparison, for example, there are fewer instances of human rights abuses in developed countries than in developing countries. One factor here is education. Many people are so ignorant on HIV/AIDS that they think it is some sort of a *punishment* for wrongdoing. They are not aware that everybody can be affected by the disease. Ignorance, combined with poverty, makes a fine recipe for further spread of the disease. When the family, society and the state at large can not cater for the sick, they turn to negligence. Ignorance denies people the basic rights of knowing even what basic services are available at their disposal locally.

While ignorance is to blame, at times knowledge of the disease has lead to specific cases of human rights abuses also. In a study[10] conducted in Magu district hospitals on practice of health workers towards pregnant women, it was observed that some pregnant women did not receive proper care at the time of delivery because of fears among the nurses of contracting the disease. The researcher observed that the presence of HIV/AIDS presented fear among health workers to all patients. There were instances of overly caution and negative attitude towards patients with HIV/AIDS in particular a factor she termed as AIDS phobia. Negative attitude was attributed to lack of adequate protective gear. In some groups of health workers such as midwives or surgeons it was even more important to put on extra protection in order to avoid accidental contamination.

One among the most important sources of human rights abuses in Tanzania is traditional customs and behaviour. These are the most powerful obstacles that hinder efforts to fight HIV/AIDS. Most parents, for example, do not discuss sex related issues with their children. Use of protective gears such as condoms would be a taboo even to mention. So long as the right to sex education is denied to children, their lives will continue to be on the line. The statistics given for the numbers of girls drop out in primary education are astonishing. Most of these girls dropped because of pregnancies. Although there is no systematic study that has been conducted to test HIV prevalence among primary school children, they are a high-risk group. This has been central to one of president Mkapa's monthly speech when he said AIDS has exposed those who claimed that we still stick to the social ethics.

In Ruvuma it was found out that many people knew that one preventive measure against HIV/AIDS is the use of condoms. But the problem was that people feel shy to buy from shops or even to ask for free condoms that are provided in some health centres. Others revealed that they could not afford to buy condoms all the time due to their financial positions. The availability of female condoms was difficult. Some people simply ignored the use of condoms.[11] When asked what preventive measures they knew before infection, 53.9 percent indicated condoms, 16.9 indicated abstinence, and 13.3 percent indicated sterilized needles while 1.6 percent indicated blood transfusion (Table 2.1). Asked what preventive measures were accessible to them before infection, 56.1 percent said condoms, while 9.5 percent indicated abstinence and sterilized needles respectively while 3 percent indicated use of warm water. This is an indication that condoms are widely known and accessible than other preventive measures.

Table 2.1: HIV preventive mode known before infection

	Frequency	Percent

[10] See Kassindi op. cit. p. 7

[11] Elias, Julius Report on the Study of HIV/AIDS and Human Rights in Ruvuma, Tanzania, 2003.

Condom	166	53.9
Abstinence	52	16.9
Sterilized Needles	41	13.3
None	44	14.3
Blood transfusion	5	1.6
Total (N)	**308**	**100**

Table 2.2: HIV preventive measures accessible to you before infection

	Frequency	Percent
Condom	148	56.1
Abstinence	25	9.5
Sterilized Needles	25	9.5
None	58	22.0
Use of warm water	8	3.0
Total (N)	**308**	**100**

The abuses of human rights of PLWHA sometimes go hand in hand with the denial of their basic rights. One such basic human right is the right to found a family. More often than not the picture that is painted of HIV positive person is that of a dying person. This is wrong. Contracting HIV does not necessary mean immediate death. Many PLWHA live long and at times do not develop AIDS. Moreover, under certain arrangements, they can have bear children if they so wish. There have been many claims and calls for people to test for HIV before they get married. Some religious organizations have gone to the extent of refusing to allow marriage to a couple who have not gone for testing. While this may not be a bad idea in itself, it is contrary to the voluntary testing practice enshrined in the national HIV/AIDS policy. However, we are now likely to see a reverse in this trend as some religious institutions are contemplating possibility of allowing marriage even if one partner is infected, provided there is a free will.

As it has been observed throughout the report, one source of human rights abuses is the feeling that being infected HIV/AIDS is a result of sinful acts. As a result there is considerable finger-pointing going around in the society. Anybody who is known to carry the disease is offered as an example of what happens to 'those who commit sins'. Table 2.3 indicates that 55 percent of respondents who were HIV/AIDS positive contracted the disease through sexual intercourse. But Table 2.4 indicates that only 26 percent knew that they could have contracted the disease that way. But more importantly close to 50 percent of the HIV positive respondents were living with a partner and chances are that it was passed from one partner. It is important to notice here that in most cases people contract HIV/AIDS from unsuspected sources. Since this sin notion is so deeply entrenched in the society, infected people thus, feel shy and guilty aggravating the human rights abuse. Related to this is the psychosocial stresses encountered by PLWHA. Specific psychosocial problems encountered by some people include shock after knowing they are HIV positive, feelings of denial, fear, despair, guilty, self blaming, self pity and worthlessness that lead to anger, depression and suicidal thoughts.[12]

Table: 2.3: How did you contract HIV/ ADS?

	Frequency	Percent
Sexual intercourse	121	55.0
Other (Not mentioned)	2	.9
Unknown	88	39.1
NA	5	2.3
Syringe and Drug Abuse	2	.9
Unsterilized needles	1	.5
Blood transfusion	1	.5
Total (N)	**220**	**100**

Table 2.4: Before infection, were you aware that you could contact HIV/AIDS this way?

[12] WHO, 1990 as quoted from Kadokado M. op. cit.

	Frequency	Percent
Yes	58	26.6
No.	136	62.4
NA	26	11.0
Total (N)	**220**	**100**

In issues relating to HIV/AIDS the right to correct information about the prevalence rate, the availability of medicare and other essential services is very important. One reliable source of information about the HIV/AIDS situation has been the antenatal clinic attendees (ANC). This information has been available in Mainland Tanzania since mid 1980s. There has been mixed results from place to place over the HIV prevalence over time. In Mbeya district the prevalence shows a fluctuation of HIV infection ranging from 23-24 percent in 1998 to 29.5 percent in 1999 and 21.6 percent in 2000.[13]

Serial population based surveys conducted in Kagera region showed a decline in HIV prevalence from 24.2 percent in 1987 to 18.3 percent in 1993. HIV prevalence among women aged 15-24 years in Bukoba town declined from 27.6 percent in 1987 to 11.2 percent in 1993. In Zanzibar, fluctuating HIV prevalence rates have been observed among ANC attendees, with rates lower than those observed in Mainland Tanzania. HIV prevalence increased from 0.3 percent in 1987 to 3.8 percent in 1995 and then to 0.6 percent in 1996, 1.4 percent in 1997 and 0.7 percent in both 1999 and 2000.[14] The above statistics indicate a declining prevalence in Bukoba and an opposite trend in Mbeya and Zanzibar. This could be a result of understanding among the people of the nature and implication of HIV/AIDS that makes them more likely to avoid contracting it than their counterparts in the two regions. In terms of action it is better to intervene in places with lower prevalence rates rather than to wait for the people to learn the hard way which is costly in terms of human life.
Equally important information is about the prevalence rate among the most marginalized group in the society - the sex workers. Information on HIV/AIDS prevalence among sex workers in Dar es Salaam has also been available since the mid 1980s. HIV prevalence among sex workers tested increased from 29 percent in 1986 to 50 percent in 1993. Outside Dar es Salaam, HIV information on sex workers is available from Kilimanjaro, Arusha, Moshi, Tanga, Dodoma, and Singida in 1998.[15] The statistics speak for themselves that the higher the marginalized a group is, the higher the possibility for increased transmission. There is a need for a changed approach over marginalized groups if we want to save them from HIV/AIDS.

When the society lacks the correct information the results could be devastating. Lack of information coupled with poverty is good companions towards the increased risks of contracting the virus. This was exactly the case where Makate observed that due to poverty some girls tend to sell their bodies as a means of quick income to sustain their lives. What is alarming is that some of those girls were not even aware of the presence of HIV/AIDS. Worse still even those who were aware, were convinced to sleep with men without any protective gear. The situation is such that people have lost hope and the need for education is now a necessity:

> The research finding revealed that the practice of unprotected sex is very strongly supported by the community. People's general knowledge on HIV/AIDS prevalence is very minimal and there is wide belief that this disease is not avoidable.[16]

In order to establish the implications of human rights abuses related to HIV/AIDS we asked respondents what would have been the consequences of refusing sex with infected persons. We wanted to know whether or not a person could consent to have sex with an infected person. It is clear that majority of respondents did not consent to have sex with infected person. They did not know in the first place that their partners were infected, and most of them would have refused had they known that their partners were infected. It is also a fact that some people do not have any option except to consent to have sex with infected persons.

[13] www.plusnews.org/AIDS/tanzania.asp 7.9.04
[14] ibid
[15] www.plusnews.org/AIDS/tanzania.asp
[16] Makate, Susane Field Report on HIV/AIDS and Human Right s in Tanzania, Mbeya, 2003

It was found that 32 out of 220 (21.1 percent) of respondents would consent to have sex with infected persons (Table 2.5). 10 out of 15 (6.7 percent) in fact knew that their partners were infected (Table 2.6). 38 out of 151 (25.2 percent) could not have refused sex with infected person (Table 2.7).

Loss of income and estrangement from spouse featured high as the most remarkable consequences of refusing sex with infected person. This is also an indication of economic dependent nature of most relationships. Out of 196, 30 (15.3 percent) respondents said that they would face estrangement from spouse while 18 out of 196 (9.2 percent) said they would face physical abuse. 17 out of 106 (8.7 percent) feared emotional abuse while 14 (7.1 percent) feared expulsion from the household; 31 (15.8 percent) respondents would face loss of income. The largest percentage however (35.7 percent) thought they would not face any consequences (Table 2.8).

Table 2.5: When you contracted HIV, did you consent to have sex with the infected person?

	Frequency	Percent
Yes	32	21.1
No	105	69.1
NA	15	9.8
Total (N)	**152**	**100**

Table 2.6: Did you know that he/she was infected?

	Frequency	Percent
Yes	10	6.7
No	119	79.3
NA	21	14.0
Total (N)	**150**	**100**

Table 2.7: Could you have refused sex with the infected person?

	Frequency	Percent
Yes	94	62.3
No	38	25.2
NA	19	12.6
Total (N)	**151**	**100**

Table 2.8: Consequences of refusing sex with infected person

	Frequency	Valid percent
Estrangement from spouse	30	15.3
Physical abuse	18	9.2
Emotional abuse	17	8.7
Expulsion from household	14	7.1
Loss of income	31	15.8
Social alienation	8	4.1
Estrangement from family	8	4.1
No consequences	70	35.7
Total (N)	**196**	**100**

The extent to which people are aware of various issues related to HIV/AIDS is directly related to their responses to the epidemic and care to PLWHA in particular. We have touched upon ignorance as leading factor for all the evils surrounding HIV/AIDS. Knowledge of issues is important as long as it also keeps people on the permanent struggle to fight further spread and to live harmoniously with PLWHA. We asked respondents whether they believed that HIV/AIDS is preventable.

Table 2.9: Do you believe that HIV/AIDS is preventable?

	Frequency	Percent

Yes	219	80.5
No	42	15.4
NA	19	4.1
Total (N)	**280**	**100.0**

It is very important to know the level of understanding of matters relating to HIV/AIDS among the society. It is a relief to find out that more than 80 percent of respondents thought HIV/AIDS are preventable. It is ironical though, that more than 15 percent of respondents thought HIV/AIDS are not preventable (Table 2.9). This is unfortunate for it indicates misdirection and a loss of hope. What people believe in is very important. Any intervention effort will have to address this factor. This is equally true of any policy or advocacy effort. People should be made aware that HIV/AIDS is preventable and that efforts are undertaken to try to reduce the negative consequences.

The Society's Perception of HIV/AIDS

It is one thing to talk about HIV/AIDS and human rights in Tanzania in workshops and conferences but completely another thing what people think about HIV/AIDS. Of course we have discussed the discrimination and stigmatization attached to HIV/AIDS in Tanzania. Our research acted as a feeler to get people's opinion on HIV/AIDS. The results are summarized on Table 2.10:

Table 2.10: What words come to mind when thinking of those living with HIV/AIDS?

	Frequency	Percent
It is everybody's problem	11	4.3
We should help the patients	6	2.3
Death threat	57	22.3
Sympathize and pray for the infected	90	35.2
Such people did unsafe/ unprotected sex	6	2.3
Loss of Nations labour force	3	1.2
Giving support to the infected	10	3.9
No special feeling	14	5.5
Government should assist care for orphans	8	3.1
Pain, suffering, miserable life	17	6.7
Others	58	22.6
Total (N)	**280**	**100**

It is found that many people are aware of the HIV/AIDS pandemic. However, people differ in their perception of PLWHA. More than 35 percent sympathize and pray for the infected. They feel sorry and in terms of care these would be ready to help (Table 2.10). 22.3 percent of respondents think of a death threat. This figure if taken with the 6.7 percent, who think HIV/AIDS depicts painful, suffering and miserable life, comes closer to those who would equate HIV/AIDS to death. Of course with no cure in place, HIV/AIDS still poses great challenges to life itself. Of the respondents 10 out of 280 (3.9 percent) would actually give support to the infected. The type of support here, unfortunately, was not specified but all the same it is an indication that people do care, even if very few. The need for HIV/AIDS education can not be over emphasized here. There is still a mixed feeling from among the people of what are the challenges of HIV/AIDS. Violation of human rights to a lager part springs from this arising confusion.

The Role of Media in Protection of Human Rights

While the media has been alleged not to be necessarily a reputable source of factual human rights information, it may, however, alert researchers to the occurrence of specific rights violations. By conducting media research, the LHRC seeks to uncover issues that merit greater consideration and study.

It is noted, for example, that Uganda was the first East African country to be hard hit by the disease, but the situation has now improved for the better because of the positive cooperation between the media institutions with other non governmental organizations that deal with HIV/AIDS. In Uganda, the media

managed to shape public attitudes not only on the disease itself, but also to wider issues of sex, poverty and social inequality factors that are integral part of the epidemic.[17]

Perhaps the greatest contribution of the media in the fight for human rights of PLWHA in Tanzania is breaking the silence. It is a fact that when freedom of expression is curtailed by sexual taboos, religion inhibitions as well as social customs and attitudes, the war on HIV/AIDS is made more difficult than when the society is open. To a larger extent the media has played significant roles mainly also as an educator. Being what it is, it is effective way of communicating as it reaches a wider audience at a time. The media as an entity has a direct link to the day-to-day lives of human beings because it provides information that shapes attitudes and behaviour in society. In most cases if there are instances of human rights abuses in the society it is expected that the media will be in the forefronts of exposing such practices. Nyoni[18] concedes with this when he concludes that the media has a very strong influence especially on the urbanized and affluent people to the extent that it now dictates what individuals do. The media in short, sets the agenda and keeps the debate going about several issues in the society.

Breaking the silence is one important step towards the fight stigma and discrimination associated with HIV/AIDS. We wanted to know whom one is likely to discuss with about HIV/AIDS. In 91 out of 395 cases (23 percent) respondents were likely to discuss with family, 120 (30.4 percent) said they discuss with friends, while 30 (7.6 percent) respondents said they discuss with religious leaders. Only 21 (5.3 percent) said they discuss with doctors and 65 (16.5) respondents said they discuss with partners.

Table 2.11: Whom could you discuss with about HIV known before infection?

	Frequency	Percent
Family	91	23.0
Friends	120	30.4
Religious leaders	30	7.6
Teacher	15	3.8
Doctor	21	5.3
Spouse/ partner	65	16.5
Nobody	52	13.2
Other (Not specified)	1	0.3
Total (N)	**395**	**100**

In Tanzania the media has played a positive role in providing information that assist people understand important information about how one can be infected and how to avoid infection. For example in Bukoba, active prevention programmes conducted by mass media resulted into a fall of prevalence rate from 28 percent in 1987 to 11 percent in 1993 among women falling under age group of 15 - 24 years. In the surrounding rural areas, HIV/AIDS prevalence among women in the same age group fell from almost 10 percent in 1987 to 3 percent in 1996.[19]

Table 2.12: Summary of Programmes on HIV/AIDS and Human Rights in Tanzania

Programme	**Issues**	**Media and day of broadcast**
Zinduka (Wake Up)	Focuses on how youth can avoid contracting the HIV/AIDS	RTD - Wednesdays 20:30 - 21:00 hrs
Geuza Mwendo Wako (Change your behaviour)	Focuses on how HIV/AIDS is spread and discusses preventive measures	RTD - Wednesdays 01:15 repeated Mondays 08:15 - 08:30 hrs

[17] Nyoni, A. N., The Role of mass media in the Fight Against HIV/AIDS in Tanzania, 2001
[18] Ibid.
[19] UNAIDS Report in Global HIV/AIDS Epidemic: Geneva, 1999

Face the mike	Focuses on sexual offence and human rights related subjects such as killing of women and ostracism	RTD - Thursdays, 20:00 - 20:30 hrs repeated Sundays 14:00 - 14:30 hrs
Women and Development	Focuses on the sexual offence bill and the protection of women against violence and HIV/AIDS related risks	ITV - Saturdays 16:30 - 17:00 hrs and RTD - Sundays, 11:00 - 11:30 hrs.
Youth Microscope	Discusses how youth can prevent contracting AIDS	DTV - Mondays, 12:00 - 12:30 hrs
Ukimwi ni Huu (This is AIDS)	Provides a first hand reporting of the HIV/AIDS situation in rural Tanzania	ITV - Tuesdays 12:30 hrs

As it will be shown later, the media has also been used as a tool for mobilizing support for PLWHA aimed at reducing human suffering. A recent example is that in which the programmer of *Ukimwi ni Huu*[20] visited Makete, one of districts with high prevalence rates, and brought to light the human suffering brought about by HIV/AIDS. Images of hungry, weak, poorly housed people once again filled the news. This image was used to mobilize good Samaritans to contribute in cash or kind towards the plight of the people of Makete. The response was very positive. People contributed mattresses, clothing, bedding material, food, etc. And the good thing, as attested by the recipients, the assistance reached the target population. In fact they made a call to other organizations to emulate ITV in sending assistance directly instead of using agents. While this could not be sustainable, it is a positive contribution of the media in ameliorating the suffering that PLWHA encounter and it gives them hope that somebody is caring for them.

One advantage of breaking the silence and talking about HIV/AIDS is that people acquire a deeper understanding of the disease which leads to overcoming the false beliefs that contracting HIV/AIDS is a result of immoral sexual behaviour. The media may keep people informed that many people have been infected through other means. Some people contract the disease through loved ones. But even more important is that the media has been used to educate people that contracting HIV/AIDS does not make one *any less* human. For this reason, PLWHA need to be treated with human dignity and respect. They need, more importantly, care and not scorn.

Table 2.13: Source of information about HIV/AIDS

	Frequency	Percent
Family	85	14.4
Friends	137	23.2
School	71	12.0
Doctor	36	6.1
Media	187	31.6
Religious organizations	70	11.8
I didn't receive any information	4	0.7
Other (Not specified)	1	0.2
Total (N)	**591**	**100**

Issues of HIV/AIDS and human rights in Tanzania have received wide coverage in the media. In Tanzania both private and government owned radio, television, and newspapers have been used to inform and educate the public about rights of PLWHA. Since the media is also a reflection of the society, it would be expected that at times the media could be used to perpetuate human rights abuses covertly or overtly. In

[20] Literary translated "This is AIDS", A programme aired by ITV with Betty Mkwasa as Chief Programmer.

surveying the media Table 2.12 above is a summary of some of media programmes offered at least once a week, that are dedicated to broad issues of HIV/AIDS and human rights.[21]
This schema although by no means exclusive, gives an indication of the role of media in expounding various issues related to human rights of PLWHA. Although it is very difficult to measure the impact of the media on the society, the recent debates centered on an advertisement by *Ishi* Campaign could serve to demonstrate that the media has a wide impact on the Tanzanian society.[22]

The media has been found to be a leading information provider on HIV/AIDS and Human Rights in Tanzania. When asked what are their sources of information concerning HIV/AIDS, 31 percent of respondents received information about HIV/AIDS from the media Table 2.13). We may conclude then that the media has a central role in the provision of education on all issues concerning HIV/AIDS in Tanzania.

CHAPTER THREE

HUMAN RIGHTS STANDARDS, POLICIES, PRACTICES AND STRUGGLES

National and International Legal Framework

All Tanzanians are guaranteed certain basic human rights by various acts of government as well as international instruments. Foremost among these covenants is the constitution of the United Republic of Tanzania, to which a Bill of Rights was added in 1984. This enshrined universal rights to life, equality

[21] A modified and updated version of Nyoni, A. N. The Role of Mass Media in the fight against HIV/AIDS in Tanzania

[22] The "Ishi" advertisement generated a lot of controversy and at one point in a programme aired by ITV the Chairperson of TACAIDS Maj. Gen. Herman Lupogo vehemently defended the advert saying it specifically targeted the youth who are likely to indulge in risky sex behaviour. But in its November 2004 session the parliament demanded that the advert be banned as it encourages sex among the youth contrary to Tanzanian customs.

among human beings, equality before the law, personal freedom, privacy and personal security, work, just remuneration and property.

Also freedom of movement, religion, expression, and political association were assured. Additional human rights have been guaranteed to Tanzanians by their government through numerous international treaties. These include the International Covenant on Civil and Political Rights (1966); the International Covenant on Economic, Social, and Cultural Rights (1966); the International Covenant on the Elimination of All Forms of Discrimination Against Women (1979); the African Charter on Human and People's Rights (1981); and the African Charter on the Rights and Welfare of the Child (1990). Further rights have been accorded in precedent setting judicial decisions and statutes passed by the Tanzanian Parliament. These various commitments form the framework within which Tanzania's HIV/AIDS policy and practices should rightfully exist.

Where Are the Human Rights of PLWHA Abrogated?

In spite of these legally binding guarantees, human rights violations are all too common in Tanzania. The government's response to HIV/AIDS has included measures that abrogate human rights. The results of such policy measures are devastating to efforts to curb the spread of the virus and the treatment of PLWHA. Some policies actively discriminate against those with HIV/AIDS while the absence of other policies tacitly endorses the harm done to this vulnerable group. Often such poor policy decisions result in the social stigmatization of PLWHA and perpetuate suffering.

Another major problem relates to practices rather than policies. Even where the law assures PLWHA certain rights, the administration of services is done in a discriminatory manner. The law is ignored, and PLWHA find themselves with few avenues of recourse. Additionally, human rights violations occurring in areas that HIV/AIDS policy still worsen the crisis. Women's rights, for example, are integral to stopping the spread of HIV by asserting the sexual autonomy of the individual.

This is reinforced by the observation made in Kigoma. The researcher observed that most of interviewees were not aware of their rights. Majority of them said they know nothing about those rights. As members of the community they only know that non-governmental organizations that are dealing with HIV/AIDS are sometimes assisting them as their moral obligations with no legal implications. They do not understand whether their rights could be enforced or not. Very few of them particularly those with higher levels of education knew that they have rights which could be enforced by courts of law. But unluckily enough even those who are aware of their rights lacked sufficient means to access legal recourse. When it came to the plight of PLWHA Clement observes that:

> Thus the issue of the rights of the PLWHA is known to those people who are running the voluntary organizations and not to the victims themselves. It was further observed that people running the organizations are not HIV positive.[23]

The bone of contention regarding the right to security of persons is access to anti-retroviral drugs (ARVs). Western pharmaceutical companies hold the patent to potent ARVs which are desperately needed by millions of people in the developing world. The international law community has wrestled with the conflicting patent rights of pharmaceutical companies and the basic human rights of poor HIV/AIDS sufferers. To the extent that the monopoly continues and the prices remain high, PLWHA will not afford to buy the drugs and their security of person will remain highly endangered.

The Government Policy on HIV/AIDS

We have in Tanzania a problem with initiation and formulation of policies. Most of the policies are top-down, meaning they are created from the top with little consultations with stakeholders. The net effect of this lack of popular participation is that people are reduced to levels of 'inactive' recipients of policies lacking information and awareness. The National Policy on HIV/AIDS is not exceptional to this rule.

[23] Clement, Mkillya D. Field Report on HIV/AIDS and Human Rights in Kigoma, 2003

A human rights approach to HIV/AIDS in Tanzania would advocate for the opposite. Before drafting of such policies as the policy on HIV/AIDS, it would be appropriate to seek views of all important stakeholders. This is an awareness-raising exercise in itself. When this is done the policy will reflect firstly the need of the people concerned and secondly it will make the policy more effective and implementable.

As a result of little consultation with the people, although the national framework has been developed, its effectiveness is constrained due to a leadership that lacks skills in coordinating and mobilizing multi-sectoral initiatives. There has been a general lack of political commitment towards the program as key actors in the government, including its sectors, give low priority to National AIDS Control Programme (NACP) activities.[24] NACP was established in 1985 under the auspices of the Ministry of Health with the objective of slowing down the spread of HIV infection.

After an initial period of inaction, puzzle and lack of focus the government now has realized challenges posed by HIV/AIDS. A national strategic framework (2003 -2007) is being developed. Prior to this, in 2001 the cabinet endorsed the HIV/AIDS policy that covers HIV/AIDS prevention, control, care, and support as well as human rights and avoidance of discrimination and stigmatization.
It is heartening to see that the policy has touched on a very sensitive issue of treatment. It is now a well established factor that in cases of HIV/AIDS many PLWHA who have received prompt treatment have been able to continue to work and produce food and other products necessary for sustaining life. This, in turn, has helped decrease food insecurity, malnutrition, etc. for a wide section of the community.[25]

The Tanzanian government's response to the AIDS crisis has primarily focused on containing and preventing the disease. The government's education and prevention efforts are directed primarily at rural communities in an effort to keep the disease confined to urban areas, which have the highest rates of infection.

In order to slow the spread of the disease in already-affected areas, the Tanzanian government works with non-governmental organizations (NGOs) to establish condom distribution programs and educational campaigns designed to change men's sexual behaviour. Another containment effort is a blood donor screening program sponsored by the World Health Organization (WHO), which has helped to lessen the risk of HIV transmission in blood transfusions. Adults are not the only targets in these containment and prevention efforts.

In 1995, the Tanzanian National AIDS Control Program (NACP) established educational programs in Tanzanian elementary schools in order to inform young children about prevention methods and the disease's transmission and effects. Although containment and prevention efforts could play an important role as part of an overall strategy for combating HIV and AIDS in Tanzania, they have not been overly effective by themselves. A major problem with the government's approach is that the general public has not been educated about the need to respect the human rights of PLWHA. This has permitted HIV-related prejudices to flourish and has driven PLWHA underground in an effort to avoid the discrimination associated with the disease. As a result, PLWHA often do not receive adequate treatment and are more likely to infect others. Discrimination also perpetuates misinformation and stereotypes about how the disease is spread and the types of people who are affected. The resulting negative attitudes cause HIV/AIDS to remain a forbidden subject, and as a result, people are likely to remain uninformed about risky behaviours they should avoid in order to remain uninfected.[26]

Although the first case of HIV was reported in Tanzania in 1983, it was only in 2001 that the cabinet endorsed the HIV/AIDS policy. The policy covers HIV/AIDS prevention, control, care and support, as well as human rights and avoidance of discrimination and stigmatization. This hesitation on the part of the

[24] See Nyoni op. cit. p. 45-46
[25] See Mayne, R. "The TRIPS Agreement and Access to medicine: An NGO Perspective" in Katarak, H., and Strange, R., (eds) *The WTO and Developing Countries.* London: Palgrave and UNAIDS (2000) *The Brazilian Response to HIV/AIDS:* Best Practices: Geneva: UNAIDS
[26] See *the Human Rights Brief* op cit

government as already indicated above led to rising levels of infections and further human rights abuse in the absence of a clear government policy on HIV/AIDS.

Equally important, there is a need for the government to make available the information about the exact quantities of a medicine that they need to purchase. Recently the government announced that the ARV drugs for PLWHA would be distributed free of charge starting October 2004. Initially the drug would be offered to 4200 people, among them 3,360 adults and 840 children.[27] Although this is the first phase and the government has plans for increased number of recipients, the number of beneficiaries is still very low compared to the number of PLWHA in Tanzania. There is a need for further education on dosage, side effects, and other relevant information concerning the ARVs. Again, apart from increased target beneficiaries to reach at least two thirds, there is a need to expand networks of health centres with trained medical practitioners for HIV/AIDS. Since the government would most likely not be in a position to offer free of charge medicine to all PLWHA, it should have a sustained effort to lower the price of life-sustaining drugs to affordable rates. At least it should make available drugs at a subsidized rate.

But the government may also consider the option that the Ugandan government undertook. Eighty percent of the imported drugs in Uganda are generics. This enables consumers in Uganda to have a choice between (i) a patented product that has a higher price and perhaps greater theraupatic benefit and (ii) lower price benefit generic substitute.[28] An advantage of this is that the arising competition between patented products and generic ones will eventually lower down the prices.

HIV infection and AIDS have emerged as the most challenging health problem of our time. The pandemic has raised difficult medical issues as well as some legal and ethical questions. This pandemic requires a comprehensive solution that aims at not only tackling the medical questions but also the legal and ethical issues associated with HIV/AIDS. It has been observed for instance, now that HIV/AIDS is foremost a human rights problem. Any efforts at addressing the problem should address human rights concerns of not only PLWHA but also the society at large.

There are fundamental legal and ethical issues involved in HIV/AIDS research, HIV/AIDS testing and handling of PLWHA that have to be addressed by a national HIV/AIDS policy. The way practitioners handle these legal and ethical issues will have either a negative or positive impact on the national efforts to control the spread of HIV/AIDS. We submit that Tanzania's national HIV/AIDS policy has not given legal and ethical questions their due attention to make them contribute positively to the national efforts to control AIDS. The government needs to re-address legal and ethical issues associated with the HIV/AIDS if its effort to arrest the spread of this catastrophe and ensuing human rights abuses are to bear fruits.

The Tanzania Commission for AIDS (TACAIDS)

The Tanzania Commission for AIDS was established in 2001 under the Prime Minister's Office primarily to coordinate the implementation of the National Multi-sectoral Response to the HIV/AIDS epidemic.[29] This was a departure from the previous thinking that was informed by a single-sector approach of NACP. Under NACP, HIV/AIDS was taken as largely a health problem. No wonder NACP is still under the Ministry of Health.

The vision of TACAIDS is to have a society in which our children can grow up free from the threat of HIV/AIDS and which cares and support those who are still infected and affected by HIV/AIDS. To achieve the mission, TACAIDS has eight main objectives among them to develop strategic framework and national guidelines to support planning, coordination and implementation of the National Multi-sectoral Response at all levels; to develop and facilitate implementation of national strategy for advocacy on HIV/AIDS epidemic; to promote research on HIV/AIDS and foster linkages with other research institutions as well as to establish and maintain multi-sectoral HIV/AIDS information management system and facilitate information dissemination.

[27] The African, Friday, October 1, 2004
[28] See Oxfam "The US must stop blocking access to HIV/AIDS Drugs, www.oxfam.org.uk
[29] TACAIDS, 2001

The mission statement is centred on provision of leadership for a national multi-sectoral response to HIV/AIDS. It is hoped that by so doing it will lead to reduction of further infectious associated diseases and the adverse socio-economic effects of the epidemic.

The establishment of TACAIDS as we have seen in the foregoing paragraphs was a response to a previous fiasco of NACP. It was realized that HIV/AIDS could not be approached from one angle. It needed a more multi-disciplinary and multi-dimensional approach. But even here a quick review of the vision, mission goals and objectives does not indicate that the issue of human rights violation of PLWHA has been given a central significance. In the mission statement what is being referred to is the reduction of *adverse socio-economic effects* of the epidemic. Although the socio-economic effects may include human rights related issues, this needed to be explicitly stated. We have already noted that any effort to reduce the adverse effects of HIV/AIDS must address human rights at its core.

The major challenge for TACAIDS is to intensify interventions to reduce the rate of HIV infection through well coordinated national response programmes that ensure comprehensive community based HIV/AIDS interventions. The greatest threat for intensified multi-sectoral response to fail is the widespread stigma associated with AIDS in Tanzania.[30]

The Role of Non Governmental Organizations in the Struggle for Human Rights

Recently, NGOs and Tanzanian AIDS activists have taken a different approach to the problem. While acknowledging that education and prevention are essential elements in a national strategy to combat the disease, these groups have articulated the importance of strengthening legal human rights protections for people with HIV/AIDS. The Tanzanian government began addressing HIV/AIDS-related human rights issues in 1996, when it issued a 27-page non-binding proposal to ban HIV/AIDS discrimination against workers and job applicants. Instead of permitting employers to terminate an HIV-positive person's job, the policy stated that an individual with an HIV infection should be permitted to continue working as long as he or she is medically able. The proposal also advocated equal rights in employment, insurance, housing, travel, and education, and called for an end to mandatory disclosure to employers and insurers. Unfortunately, this new policy did not lead to any anti-discrimination suits on behalf of HIV/AIDS patients, nor did it foster much national discussion about the problems faced by people with HIV and AIDS. NGOs remained underfunded and poorly equipped to deal with the social and legal problems related to HIV/AIDS.

The most recent effort to address human rights abuses began in January 1997 when a group of lawyers, policy makers, and doctors met in Dar es Salaam to discuss the legal, ethical, and human rights problems associated with HIV and AIDS. The workshop was organized by NACP and the United Nations Development Programme (UNDP), and was the product of an ongoing UNDP effort to establish regional networks in response to the African HIV/AIDS crisis. The Tanzanian network is the fifteenth of its kind in the region. As a result of the meeting, the group agreed to formulate an integrated policy response to HIV/AIDS in Tanzania that would incorporate law, policy, and medicine and would focus on both health issues and human rights concerns.

The new approach will include lobbying efforts and other activities. First, it will attempt to prevent legislation that would discriminate against people with HIV/AIDS and encourage legislation that would strengthen institutional and legal protections for people with HIV/AIDS. The lobbying strategy will also work to change existing laws that intentionally discriminate, as well as laws like the Evidence Act and the Criminal Procedures Act of 1985, which do not intentionally discriminate but nevertheless violate the PLWHA's privacy and non-disclosure rights. Next, the Tanzanian network will influence governmental policies regarding groups that are vulnerable to HIV infection, such as women, migrant laborers, prisoners, miners, long- distance drivers, refugees, and soldiers. The network will also advocate a ban on employer HIV- testing. Another goal is to make legal support services available to people with HIV/AIDS who have experienced discrimination. Finally, the network will establish a computer database that will compile a record of human rights violations in Tanzania against people infected with HIV and AIDS.

[30] See also the Joint Health Technical Review Report, 2002

In May 1997, Tanzanian representatives joined members of the fourteen other regional networks at a UNDP conference in Cote d'Ivoire. Each country representative presented an update of the national network's activities and evaluates its effectiveness. The conference was the first opportunity to determine whether the national networks have constructively addressed the problems of human rights abuse and discrimination against people with AIDS and HIV in Africa. [31]

NGOs are expected to play an advocacy role. They are supposed to lead the fight against stigma, and generally betterment of the PLWHA. In a recent interview, Kofi Anan, UN Secretary General urged people through their organizations to take on the fight. He called upon them not to be afraid to challenge their governments to do something about the epidemic. They have the right to demand support, he said. He compared AIDS to a weapon of mass destruction, and called for a more militant approach to its fight.[32]

NGOs in fact have been very effective partners and have been active in lobbying and pushing the governments to do the right thing. Women organizations in particular have been very important, probably because more than 50 percent of PLWHA are women. By empowering women and giving them confidence and letting them talk, a remarkable achievement is being made.

[31] See *The Human Rights Brief:* Centre for Human Rights and Humanitarian Law. Washington College of Law, 1997

[32] Quoted in the *African Recovery,* UN Dept. of Information, Vol. 7, No. 4 Jan 2004

CHAPTER FOUR

INSTANCES OF HUMAN RIGHTS ABUSES IN TANZANIA

In this chapter we present specific cases of human rights violations in Tanzania. The purpose was to establish the extent to which violation of human rights accrues as a result of HIV/AIDS pandemic. Human rights abuse could be a function of government policy or simply of those who are responsible for implementing the policy. Two distinctions were made between violation, that is a result of a policy itself or that is the result of human agency.

Discrimination against PLWHA in Tanzania

Like many African countries, Tanzania has been hard hit by Acquired Immune Deficiency Syndrome (AIDS) and the Human Immunodeficiency Virus (HIV), which causes AIDS. In addition to lack of medical facilities and limited access to treatment, PLWHA in Tanzania in the past have faced discrimination, privacy violations, and other human rights violations. Recently, however, the government of Tanzania has begun working with human rights organizations to create safeguards for human rights of PLWHA.[33]

Table 4.1: Examples of rights of PLWHA violated

	Frequency	Valid Percent
Finger-pointing	3	2.3
Not being promoted at work	1	0.8
Terminated from work	7	5.6
Isolation by family and spouse	18	14.5
Estrangement from friends	6	5.0
Discrimination and stigmatization	49	39.5
Failure to access medical services	5	4.0
Absence of law to protect PLWA	1	0.8
Failure to get employed	6	5.0
No violation	28	22.5
Total (N)	**124**	**100**

We asked respondents an open-ended question to give us a general picture of all their rights, which they thought were being violated. From Table 4.1 above, we found out that discrimination and stigmatization are leading on the list of rights being violated, which amounts to 39.5 percent (49 out of 124 respondents). It is rather strange that the greatest source of human rights violation emanated from the family. From summary on Table 4.1 above, 14.5 percent of respondents reported to have been isolated by family and spouse. This is all too common in Tanzania. There are instances where some widows of ostensibly HIV/AIDS related illness are forced to be married by close relatives of the deceased contrary to their wishes. Refusal to this automatically leads to discrimination, stigmatization and all sorts of embarrassments. At some points the question at stake is inheritance rights. It should also be noted that there is a significant amount of people (5.6 percent) who are being terminated from work because they have been found to have HIV/AIDS and a similar number being estranged from friends. This is a rather disturbing and unfortunate unfolding. One would have expected the family to be a source of hope for PLWHA. Friends and colleagues are expected to be equally supportive and a shield against any discrimination.

One of the strategies to fight stigmatization is voluntary disclosure of one's HIV status. Human rights as well as advocacy NGOs have contributed a lot towards this achievement. As hinted above, the campaign conducted by SHDEPHA+, for example, succeeded to make people more open. Those who disclose their sero-status, serve as a model that an infected person could still carry on with daily routine. It also served to sensitize people that anybody can be infected and thus reducing the stigma.[34] NGOs serve the plight of the

[33] See the Human Rights Brief: Centre for Human Rights and Humanitarian Law. Washington College of Law, 1997

[34] See Nyoni, op. cit p. 20

individuals stigmatized by AIDS. They mobilize community, care for the needy and provide information, education as well as counseling.

As regards voluntary testing, it is evident that the practice is now taking roots in the society. People have now realized the importance of voluntary testing so as to establish their health status. It is revealed that a large percentage of respondents (70.6 percent) volunteered to test for HIV/AIDS (Table 4.2). Very few (5.4 percent) tested as a result of health related circumstances (those who were compelled by doctors and health conditions).

Table 4.2: Did you volunteer for HIV/AIDS testing or were you compelled?

	Frequency	Valid percent
Volunteered	155	70.6
Compelled by husband/partner	12	5.4
Compelled by employer	2	0.9
Compelled by doctors	10	4.5
Compelled by health condition	2	0.9
Other	39	17.7
Total (N)	**220**	**100**

We wanted to see whether there were any consequences of refusing to test for HIV/AIDS and Table 4.3 presents the summary of the result:

Table 4.3: Consequences of refusing to test for HIV/AIDS

	Frequency	Percentage
Estrangement from family	20	14.1
Estrangement from friends	13	9.2
Separation from spouse/partner	32	22.5
Exclusion from study	2	1.4
Loss of employment	28	19.7
Physical abuse	9	6.3
Emotional abuse	15	10.6
Social alienation	8	5.6
Discrimination	10	7.0
Loss of property	5	3.5
Total (N)	**142**	**100**

For those who were compelled to test, we investigated the consequences of refusing to test. It seems a leading factor that forces people to test is the pressure from a spouse. Out of 142 respondents, 32 said that they would be estranged form spouses if they refused to test (Table 4.3).

Ignorance is at the centre of the spread of HIV/AIDS and stigma. Ignorance is made worse by raising rates of poverty. When the family, society and the state at large can not cater for the sick, they turn to negligence. Ignorance denies people of basic rights of knowing even what services are at their disposal locally.

Another source of stigma is the socially constructed belief that HIV/AIDS is a reflection of one's degree of promiscuity, therefore acquiring social label. The basis for stigmatization may be the underlying social attitudes. The mode of contagion may be an underlying factor on negative attitude on AIDS patients. In

places where homosexuality and intravenous drug is a major route of HIV transmission such as Europe and America, negative attitudes to these behaviours determine the negative attitude seen on PLWHA and HIV/AIDS in general. HIV infected individuals may be seen as representatives of unpopular lifestyles.[35]

Rights to Privacy Abrogated

The right to privacy is a defining feature of humanity. Right to privacy simply defined includes freedom from interference. When it comes to HIV/AIDS and human rights it means the right to disclose one's HIV status. Issues related to one's health are personal and are entitled to privacy unless by express consent of an individual concerned. The observation found out that the situation was not much different even for those who were cared for in some organizations. Respondents indicated that their right to privacy was highly curtailed even by close confidants.[36]

Asked whether their right to privacy has been abrogated because they have HIV/AIDS, Table 4.4 summarizes the results followed by Table 4.5 which is a follow up question to the above question aiming at discerning the exact instances of violations of right to privacy.

Table 4.4: Has your right to privacy been violated because you have HIV/AIDS?

	Frequency	Percent
Yes	12	5.7
No	178	84.8
NA	10	9.5
Total (N)	**220**	**100**

Table 4.5: Explanation of violation of right to privacy because of your HIV status

	Frequency	Percent
Interference at home	3	37.5
Expulsion from house by landlord	1	12.5
Room visits without my permission	1	12.5
Discrimination by spouse	1	12.5
Expulsion from home	1	12.5
Low respect	1	12.5
Total (N)	**8**	**100**

It will be noted that there was low response rate regarding particular instances of violation of rights to privacy. While the response rate is high concerning the right to privacy abrogated (Table 4.4), the situation is different when it came to giving explanations where only eight people responded to this question. The statistical significance remains, though. It is found out that only 5.7 percent of respondents (Table 4.5) said their right to privacy was violated. The second part of the question acted as a check up mechanism. It was used as a control. Its significance is also as a gauge of level of understanding of human rights. While majority of respondents knew their rights were violated or not violated, they were not in a position to say exactly what those rights that were being violated were. This is an indication of low level of understanding of human rights. It was observed that many respondents were not aware of their human rights thus could not respond well to some questions.[37]

[35] For a full detail of this see Kassindi, S., *HIV/AIDS Related Knowledge, Attitudes and Practice of Health Workers towards Pregnant Women in the Labour Wards in Magu District.* Unpublished M.A. Thesis, University of Dar es Salaam, 2000

[36] Clemence, op.cit

[37] Clemence, op.cit; Elias, Songea Field work report; Alex, Rita Arusha fieldwork report. Going through the reports one gets a first hand feeling that there is a problem of low level of understanding of human rights

Forced Testing

The right to equality and dignity was mostly abrogated when it came to provision of employment. The observation made in Kigoma indicated that there were no equality and dignity in provision of employment. This is to say that PLWHA do not get employed or they have been fired once their HIV status is known. It was observed that even those who were physically fit to hand manual work could still not be employed if they tested positive. It was clear that some employers requested applicants to test as a precondition for employment. Among those interviewed, 2 percent said that they had their employment shelved when it was discovered that they were HIV positive. The consequences of this went far beyond the employment. They noted that once their status became open the society started to view them as not right thinking members of the community.[38]

Freedom of Expression and Information

This is a key in the struggle for human rights violations in Tanzania. When the freedom of expression and information is curtailed people lack proper direction and guidance. The result of such a situation is that people will be more likely to indulge in risky behaviour that may lead to infection. But even more importantly the level of discrimination and stigmatization will be higher when people lack correct information about HIV/AIDS. Information should be handled in such a way that it does not lead to more confusion and dilemma but that aims at educating and warning.

It was observed in some places that the right to expression and information was limited. The right to expression and information is very important to PLWHA as it is to the society at large but in many cases PLWHA lacked proper avenues to air their views and receive proper feedback. They noted that the only time they get a real chance to air their views is when researchers and other people visit them. In most cases the latter offer a lot of promises which are nevertheless not fulfilled. In case of the former, it was noted that the feedback of the researches conducted remains a mystery to them. They never get feedback of any sort.

Right to Marry and Found a Family

One of the widely held misconceptions about the rights of PLWHA is their right to marry and found a family. Many people feel that PLWAs should abstain completely from marrying and founding a family because it is widely believed that they can not have children or the risks of transmission is very high among the couples. Perhaps because of this belief people are being precautioned to test for HIV/AIDS prior to engaging in sexual relationships. It is unfortunate that even religious institutions have been trapped in the same trick. While it makes sense for one to try their level best to avoid contraction by any means, when it comes to instances where one consent to have sex with an infected person what can be done? Would it not be a violation of his right to restrain him from continuing with his relationship? And most importantly, isn't this one of very important rights enshrined in the constitution of the United Republic of Tanzania? These questions would be partially elaborated by Table 4.6 and Table 4.7.

Table 4.6: Has the right to marry and found a family been violated because you have HIV/AIDS?

	Frequency	Percent
Yes	37	18.8
No	103	52.3
NA	80	28.9
Total (N)	**220**	**100**

Table 4.7: Rights to marry and found a family violated

[38] Clemence, op.cit.

	Frequency	Percent
Advised to abstain from sex for long time	17	47.2
Failure to get a spouse	9	25
Lack of sexual feeling	1	2.8
Ostracism, isolation and self pity	3	8.3
Forced marriage	2	5.6
Abandonment by fiancé	1	2.8
Divorced	3	8.3
Total (N)	**36**	**100**

It was found that the right to marry and found a family is highly violated. Misconceptions still abound as to the rights of PLWHA. It was found that 18.8 percent of respondents had their right to marry and found a family violated (Table 4.6). We wanted to know exactly how this right was violated. As shown in table 4.7, 47.2 percent (17 out of 36 respondents) were advised not to have sex for long periods of time. Another 25 percent (9 out of 36 respondents) reported that they could not find a spouse because of their HIV/AIDS status. This is especially the case as 5.6 percent reported that people started to avoid them when their spouses died, ostensibly from AIDS related illness. When one is also presented with such scaring stories of abstaining from the sex the net effect could be loss of sexual feeling altogether as indicated by 2.8 percent of respondents (Table 4.7)

Right to Information

In search for the answers for the above question we wanted to see how much information is available to people that act as a base for their judgment. So we inquired about their right to access information. Right to information is a key to all other rights. Once this is limited, other rights are likely to suffer the consequence.

Table 4.8: Has the right to information been violated because you have HIV/AIDS?

	Frequency	Percent
Yes	22	10.5
No	162	77.5
NA	36	12.0
Total (N)	**220**	**100**

Table 4.9: Explanation of the right to information violated because of HIV/AIDS

	Frequency	Percent
Denied information about community development	8	44.4
No money to buy newspapers, radio	6	33.3
Limited sources of information	4	22.2
Total (N)	**18**	**99.9**

It is not surprising then to see that the right to marry and found a family is denied when 44 percent (Table 4.9) is denied access to information about community development and the rest 55.8 percent (Table 4.9) either has got no money to buy newspapers or is faced with limited sources of information. This has far reaching ramifications. It was observed, for instance that most respondents lacked very basic information. Although the government has announced its intention to offer ARVs, very few people are aware of this. People are not aware of the ARVs let alone the government's policy.

People also are entitled to the right to *correct* information concerning HIV/AIDS. The trend has been now for individual organizations to conduct researches and come up with their own results some of them with real terrifying and contradicting statistics. This could serve to warn the society of the looming dangers posed by HIV/AIDS. But on the negative side it also leads to confusion and disillusionment. A lot is still

unknown about HIV/AIDS despite efforts of close to two decades of educating people. There are contradicting statistics of the efficacy of condoms as one of preventive measures. This thing needs to be clarified and the only way to do that is through enforcing the right to information fully. It is high time for TACAIDS to take a lead in this issue by comparing figures generated by various researches with a view to establish a more authoritative statistics concerning HIV/AIDS.

Right to Free Movement and Expression

What are rights of movement of PLWHA that are likely to be violated? Do they enjoy the right to movement and mobility? Are they simply confined in houses or hospitals for fear of shame from the society? An attempt is made to answer some of these questions in the analysis of summary of Table 4.10 and Table 4.11

Table 4.10: Has the right to free movement been violated because you have HIV/AIDS?

	Frequency	Percent
Yes	8	3.8
No	175	84.1
NA	37	12.0
Total (N)	**220**	**99**

Table 4.11: Explanation of the violation of right to free movement because of your HIV status

	Frequency	Percent
People don't want to sit close to me	2	33.3
I am not allowed to enter some public places	2	33.3
I am not allowed to go to far places	2	33.3
Total (N)	**6**	**99.9**

Table 4.12 Has the right to free expression been violated because you have HIV/AIDS?

	Frequency	Percent
Yes	31	14.7
No	160	75.8
NA	29	9.5
Total (N)	**220**	**100**

Table 4.13: Explanation of the violation of the right to free expression because of your HIV status

	Frequency	Percent
Limited resources available	15	62.5
Some people do not want to listen	7	29.2
Fear of expression to the society	2	8.3
Total (N)	**24**	**100**

The right to free movement and the right to free expression are somehow related. The degree to which one is adhered to or violated will have a direct impact on the other. For example if somebody is not allowed freedom of movement, they can rarely express themselves and be heard. Again here we face a similar situation of low response when it comes to explanation of specific instances of violation of both the right to free expression and the right to free movement. If we take one category of response NA (Not Applicable), only 37 out of 220 respondents (12.5 percent) felt this was not applicable to them (Table 4.10), while only 29 (9.5 percent) felt this did not apply when it came to right to free expression (Table 4.12). A very low frequency for explanation of right to free movement is an indication of either refusal to answer or a low understanding of the said rights. There are reports for instance of people being locked up at their homes because relatives feel shy of letting them out. A recent case in which LHRC took a leading role is the one involving a girl who was locked up by her mother ostensibly to cover the stigma and to bar her from

continued drug abuse. In her case it was the media that came to her rescue by exposing the scam after clues from neighbours. Such practices are highly probable for PLWHA.

Right to Work

This is another constitutional right to every individual. The study wanted to establish the extent to which this right is abrogated. It was found that there are so many limitations to rights of work in relation to HIV/AIDS. In some organizations contracts could be terminated after a certain period of time (i.e. sick leave could not be extended beyond a certain specified time, the expiry of which means automatic termination). It is also common practice for people to undergo health and physical check up prior to employment. Although the government policy prohibits unemployment because of one's HIV status, some people still feel that they could not be employed because of HIV status.

There have been claims of people being fired from work, demoted, or denied some of their employment benefits because they have HIV/AIDS. We made a follow up on this and the results are presented below.

Table 4.14: Does your employer know that you are HIV positive?

	Frequency	Percent
Yes	48	24.1
No	60	30.2
NA	91	45.7
Total (N)	**199**	**100**

Table 4.15: Consequences of telling employer about HIV positive

	Frequency	Percent
Would be fired	5	7.2
Would never be promoted	17	24.6
Would be offered emotional support	1	1.4
Nothing would change	19	27.5
Would be discriminated against	27	39.1
Total (N)	**220**	**100**

Here it is interesting to note that more than one third (30.2 percent) of respondents would not tell their employer that they are HIV positive (Table 4.14). Only one fifth (24.1 percent) of respondents would tell their employers that they are HIV positive. Why is this case? Wouldn't this simply aggravate the problem compounding it even further? Even if the answer to these questions is yes how would they tell their employer when the danger for being fired as a result is great? Table 4.15 indicates that up to 7.2 percent of respondents would be fired if they told their employers they were HIV positive. Worse still 24.6 percent would never be promoted. More discouraging is that only 1.4 percent would be offered emotional support. Discrimination is still notorious because two fifths (39.1 percent) of respondents would be discriminated against.

Employers are also supposed to provide medical care to employees. But in most cases it was found out that in cases of HIV/AIDS very few employers provided medical care. Here we may recall a recent commitment by the CRDB Bank to offer medical care to its employers. It announced that it has set aside a special fund to deal with HIV/AIDS cases among its employers.

Table 4.16: Has your right to work been violated because you have HIV/AIDS?

	Frequency	Percent
Yes	37	18.4
No	111	55.2
NA	72	26.4

Total (N)	**220**	**100**

Table 4.17: Explanation of right to work abrogated

	Frequency	Percent
Withheld promotion	11	40.7
Suspension from work	3	11.1
Isolation by customers	1	3.7
Failure to get employed	12	44.4
Total (N)	**27**	**99.9**

If we take Table 4.16 and Table 4.17 together we find out that there is indeed significant violation of right to work. Out of 220 respondents, 37 (18.4) percent concede having their rights to work abrogated. Specifically PLWAs were less likely to get promotion (40.7 percent), were highly likely to be suspended or having their contracts terminated (11.1 percent), were isolated by customers (3.7 percent) while a whole 44.4 percent could not get employment because of they had HIV/AIDS (Table 4.17).

These are high figures by any yardstick for a country like Tanzania that has vowed to protect human rights. This situation is not acceptable and the trend should be reversed. We understand that now the government is no longer a major employer, the private sector having taken up this role. But the government remains with the regulatory function and is a source of policy that is expected to be followed by all stakeholders. The government should make sure that its policies are implemented effectively by employers regarding rights of PLWHA.

We wanted to see the status of provision of medical support by employers. The results are interesting. So far only 8.2 percent of respondents had their employers provide medical benefits to help those living with HIV. More than half of the respondents (52.2 percent) did not receive any medical benefits or financial assistance to help them cope with the costs of medicare (Table 4.17).

Table 4.18: Does your employer provide financial or medical benefits to those living with HIV/AIDS?

	Frequency	Percent
Yes	15	8.2
No	96	52.2
NA	92	39.3
Total (N)	**220**	**100**

Right to Equality

According to the constitution of Tanzania and various international legal instruments to which Tanzania is a part, right to equality is paramount. Every person, regardless of his/her sex, status, wealth, position, etc. is entitled to right to equality. When it comes to the laws of the land, the constitution stipulates clearly that no individual is above the law. All are equal before the law. The rules of bureaucracy and governing procedures are also clear. There is not supposed to be any preferential treatment of certain individuals. Right to equality in short prohibits discrimination of any kind when offering public services.

We asked respondents whether their right to equality has been violated because they have HIV/AIDS. We wanted to know instances of violation of right to equality that has been violated and we left it upon respondents to give us their own views. The results are summarized in Table 4.19 and Table 4.20 respectively.

Table 4.19: Has the right to equality been violated because you have HIV/AIDS?

	Frequency	Percent
Yes	58	28.6
No	130	64.0
NA	42	7.4
Total (N)	**220**	**100**

Overall, PLWHA suffer many forms of human rights abuses. They range from unequal treatment, lack of support from partners, mistreatment in hospitals, disrespect from society and family, and alienation from friends and family.

The results in Table 4.19 and Table 4.20 indicate an existence of human rights violation from the society for PLWHA. Out of the 220 respondents 58 (28.6 percent) said they have experienced human rights violations of various forms. Of these, 41 respondents (71.9 percent) indicated that they are not treated equally as others because they have HIV/AIDS, 7 percent were terminated from work and a significant number faced isolation from families and friends.

Table 4.20: Explanation of right to equality violated because of HIV status

	Frequency	Percent
I am not treated equally as others	41	71.9
Terminated from work	4	7.0
No enough support from my partner	1	1.8
No equality in hospitals	2	3.5
People see me like a dog	1	1.8
My husband does not respect me	1	1.8
Expulsion from household	2	3.5
Discriminated at my workplace	1	1.8
Isolation from my family and relatives	1	1.8
Isolation from friends	1	1.8
Social alienation	2	3.5
Total (N)	**57**	**100**

The Right to Dignity and Non-Discrimination

This is related to the right to equality. The right to life that is a primary would be made meaningless without the right to dignity. Dignity is central to human existence. The right to dignity accrues to a human being not because of status or wealth but because of his/her contribution in the society. One's dignity may be jeopardized if one indulges in socially unacceptable behaviour. Unfortunately due to stigma attached to it, PLWHA loose dignity because society views them as adulterous individuals. When there is unequal treatment between PLWHA and others the dignity of the PLWHA and their plight in general is violated. In Mbeya our researcher observed that:

> The right to dignity is violated, as those who are living with HIV are not respected. The society sees them as adulterous and worthless people who can die any time. Also PLWHA are suffering from discrimination. They are discriminated by their families, friends and even at places of work. At the family level PLWHA face stigmatization as they are seen as sinners. In the work place the employers discriminate them by not giving them equal opportunities as those who are either negative or unsure of their HIV status.[39]

Table 4.21 is a summary of right to dignity that has been violated because of HIV/AIDS status followed by Table 4.22. The right to dignity and right to non-discrimination go together. For this matter we will also present results of the violation of right to non-discrimination (Table 4.23 and Table 4.24). This affords us to make comparisons and establish relationships between the two.

Table 4.21: Has the right to dignity been violated because you have HIV/AIDS?

	Frequency	Percent
Yes	48	23.2
No	138	66.7
NA	34	16

[39] Makatte, Sussan Field Report on the Study on HIV/AIDS and Human Rights in Mbeya, Tanzania, 2003

Total (N)	**220**	**100**

Table 4.22: Explanation on the violation of the right to dignity because your HIV status

	Frequency	Percent
My reputation is at stake	4	10.3
No respect any more from colleagues/ friends	17	43.6
I am mistreated by some people	8	20.5
In social functions people stay away from me	1	2.6
Some people point fingers at me	4	10.3
I feel I do not receive any respect	3	7.7
Abandoned by family and friends	2	5.1
Total (N)	**39**	**100**

Table 4.23: Has the right to non-discrimination been violated because you have HIV/AIDS?

	Frequency	Percent
Yes	59	28.8
No	60.5	64.9
NA	28	6.3
Total (N)	**220**	**100**

Table 4.24: Explanation on the violation of the right to non-discrimination because your HIV status

	Frequency	Percent
People point fingers at me	12	30.0
I am discriminated by family members	6	15.0
Discriminated by family members	2	5.0
People avoid me	2	5.0
Emotional abuse of my kids	2	5.0
Regarded as a sinner	7	17.5
Socially discriminated	3	7.5
Abandoned by fiancé	1	2.5
Abandoned by relatives	5	12.5
Total (N)	**40**	**100**

It has been found that the right to dignity and right to non-discrimination are not firmly adhered to. They are still violated with impunity. Out of 220 respondents, 48 (23.2 percent) had their right to dignity violated. A similar percentage (28.8 percent) has been discriminated against. In Table 4.22 and Table 4.24 it is found that abandonment by family, close friends; finger pointing; ill treatment by some people and social discrimination to be common practices. It is interesting to note that 7.7 percent of respondents thought that they do not deserve any respect at all. This is self-pity and a sign of desperation. It arises in part due to high level of stigma to the extent of inducing hopelessness. The need for education for such individuals can not be over emphasized here.

The Right to Life and Personal Security

This could be said to be the cardinal right. Every individual is entitled to right to life. It is an inviolable right that accrues by mere fact of being born a human. No one has the right to threaten somebody else's life. We wanted to establish whether or not the right to life of PLWHA is adhered to. We left it open to respondents to offer instances of abuse or violation of the right to life. The results are summarized in Table 4.25 and 4.26 respectively.

Table 4.25: Has the right to life been violated because you have HIV/AIDS?

	Frequency	Percent
Yes	32	15.7
No	152	74.5
NA	36	9.8
Total (N)	**220**	**100**

Table 4.26: Has the right to life been violated because you have HIV/AIDS?

	Frequency	Percent
Family does not provide enough support	2	6.3
Isolation has changed my life style	2	6.3
I don't get basic necessities for life	10	31.3
Food insecurity	17	53.1
I will die soon (disenchantment?)	1	3.1
Total (N)	**32**	**100**

It is found that there is a wide spread violation of right to life (15.7 percent) of PLWHA (Table 4.25). This is a significant figure when we are talking of the right to life. It is unfortunate that we still have a lot of people whose lives are still under threat. We wanted to establish specific instances of abuse/violation of right to life as perceived by respondents. As it can be seen from Table 4.26, 53 percent of respondents noted that they face food insecurity. They do not have enough to eat. This is not difficult to understand. It is observed in Table 4.26 that up 12 percent of respondents were living isolated lives. Their families did not provide enough support and as a result their life style has changed completely. It is interesting to note that the same situation was observed Kigoma:

> The most violated right to PLWHA is right to life. The right to life does not end in breathing alone. It extends to food, shelter, clothes and other necessities of life. It was astonishing to note that even some organizations that care for PLWHA do not recognize what right to life entails. Most of PLWHA perish because they do not have food or shelter. Their lives are worse than prisoners because prisoners are assured of a meal every day. Their lives depend on handouts from Samaritans.[40]

Hand in hand with the right to life is the life to personal security. Personal security when granted ensures that an individual will not face any threats to life. In this particular case it was found out that there was considerable threat to the right to personal security. One example offered for this is an instance where a husband threatened a respondent's life.

CHAPTER FIVE

ACCESS TO MEDICAL FACILITIES AND COUNSELING IN TANZANIA

Access to Essential Drugs

One of the human rights challenges posed by the HIV/AIDS crisis in Tanzania in particular and Africa in general, is access to proper medical care. Although HIV/AIDS does not have cure, fundamental achievements have been reached in the search for life-prolonging[41] drugs. Essentially these drugs are helpful in curing opportunistic diseases common to PLWHA thus reducing the chances of developing a

[40] Clement, Mkillya Daudi Field Work Report on HIV/AIDS and Human Rights in Kigoma, Tanzania, 2003

[41] Also referred to as life saving, life sustaining, etc

fully blown AIDS. These drugs are manufactured by very strong multinational co-operations (MNCs) that maintain a monopoly of patent rights. The result of this monopoly translates itself in terms of high and prohibitive prices to majority poor in Africa and Tanzania.

Even if recently the World Trade Organization has waived the compulsory licensing for public health considerations, there are doubts about the potential benefits of the waiver. Firstly, and this is more the case in Tanzania, most countries lack the technological capacity to produce life-prolonging drugs, and secondly their national markets are too small to reap the economies of large-scale production. Consequently most of them will rely on exports mainly from Brazil and India.[42]

Table 5.1: Has the right to access to health services been violated?

	Frequency	Percentage
Yes	23	10.5
No	126	57.3
NA	71	32.2
Total (N)	**220**	**100**

Table 5.2: Violation of best possible standard of health services

	Frequency	Percent	Valid Percent
Scarcity of antibiotics from hospital	13	5.9	61.9
Limited assistance	4	1.8	19.0
Use of traditional medicine	2	.9	9.5
Discrimination by doctors	2	.9	9.5
Total (N)	**21**	**100**	**100**

It has been found that there are considerable incidences of violation of the right to best possible standard of health and physical/mental health. Up to 10 percent of respondents indicated that their rights of the best possible standard of health services were violated (Table 5.1). This is a serious drawback on the government's effort to offer free ARVs. A serious violation of the best possible standard of health services is the unavailability of antibiotics mostly needed by PLWHA. As indicated in Table 5.2 close to 62 percent of respondents lacked access to important antibiotics. Doctors have also been found to be discriminating HIV/AIDS patients (9.5 percent) who may further hamper access to medical facilities.

If for a moment we survey the situation in other countries, the current trend of pressurizing for 'affordable' prices has had some success in some of them. Notable have been the concessions obtained by Brazil and South Africa in 2001. The governments' pressure has come about as a result of themselves being pressured from within for affordable drugs to PLWHA. Perhaps because of this in Tanzania the government has announced its intention to provide life-prolonging drugs for HIV patients starting end of the year 2004. Tanzania could afford to buy the drugs perhaps because some of the large multinational enterprises such as Glaxo SmithCline Beecham have agreed to sell its AIDS drugs Combivir to poor countries at a substantially discounted price.

The United Nations Global Fund to fight AIDS, Tuberculosis and malaria mostly supplements, rather than replace, existing efforts. It means the success of a country like Tanzania depends on the extent to which it is prepared in its drug provision programme and the extent of its pushing for assistance from the Global Fund. Whether considerable efforts have been directed towards this end is something which the results are yet to blossom to the open. The United Nations Global Fund and the WHO, for example, are aiming to provide medicine at discount prices, or even free of charge as we have noticed. The WHO has recently launched the "three in five" scheme, designed to provide anti-retroviral drugs to 3 million people by 2005. The WHO has announced plans to train 'barefoot' doctors to help in AIDS treatment for rural communities in Africa.[43]

[42] See Katrak op. p.309
[43] Arthur, C., "Plague on the poor: How AIDS Divide the World" *The Independent*, 1, December 2003

Tanzania is hosting the meeting of the global fund in November 2004. Perhaps that might be used as an avenue for sustained assistance in its HIV/AIDS fight.

Since the question of access to medicine is of crucial importance, the government should explore as many options as possible. One such option is the one that the Ugandan government adopted. According to an Oxfam[44] report 80 percent of imported drugs used for prevention of AIDS in Uganda are generics. This enabled consumers in Uganda to have a choice between a patented product that has a higher price and lower price benefit generic substitute. Secondly, the competition may pressurize the producer of patented item to lower its price.

Tanzania could also take a cue from South Africa. After considering the negative effects HIV/AIDS was having on their workers, enterprises as well as employers decided to provide free or subsidized medicines for employees. This is contrary to the practice in Tanzania where there are cases of employees having their contracts terminated simply because they are known to be HIV positive. In fact enterprise will find this in their interest sine the medicine would help improve their employees' medical condition and enable them to continue to work effectively.

It must be emphasizes that access to ARVs should be anchored on the provision of the right information about the availability and quantity of the drugs that the government aims to supply. On part of the ARVs the general findings is that the public is less informed of their availability. In Zanzibar, for example, almost all respondents were unaware of the drug. This was also the case in Mwanza. For the few who knew of their availability had no access to them due to several reasons. One reason for failure to access the drug is discrimination at places of work. If somebody is fired because of his sero status, the net effect is reduced accessibility to essential drugs since he would not have sound purchasing power. In Kagera it was observed that firstly there is no proper care for PLWHA but even when such care is available, it is so expensive that the poor can not afford.[45]

Although the government has started to offer Anti-Retroviral (ARV) drugs for AIDS victims the number of recipients is still very low at 4200 people for the first phase. According the government statement, drugs will be distributed from 32 designated centres throughout Tanzania.[46] The government plan is to increase recipients to 40,000 by March 2005. This is also largely a reflection of the situation elsewhere in Africa concerning the distribution of ARVs to PLWHA. According to WHO estimates, for the 4.2 million persons in Sub-Saharan Africa who need anti retroviral drugs, only 50,000 have so far received supplies.[47] While this is a good effort in the right direction, it is nothing to feel proud about. Compared to the population of PLWHA in Tanzania this is a very small percentage and the base need be extended. The assumption could be that since the price of ARVs has been brought down some people could be in a position to provide for their own. But this assumption only serves to increase social differentiation and possibility for corruption, a notorious practice especially when there is inadequacy of a commodity.

But are the said drugs affordable to people? Table 5.3 below presents a picture of this situation.

Table 5.3: Is the best medical care for HIV/AIDS affordable to you?

	Frequency	Percent
Yes	31	14.2
No	178	81.3
NA	11	5.0
Total	220	100

It is found that the best medical care for HIV/AIDS is not affordable to people. For every 10 people only 1 can afford the best medical care and 9 can not (Table 5.3). It goes without saying that any effort at making available the ARVs should take into consideration people's capability to access the said care.

[44] Oxfam *The US Must Stop Blocking Access to HIV/AIDS Drugs.*
[45] Mtengeti, Koshuma Shaaban Report on the HIV/AIDS and Human Rights in Kagera, 2003.
[46] The African, Friday, October 1, 2004
[47] Arthur, C., op. cit.

The net effect of scarcity of a commodity of such high value to life is creation of classes. Some few privileged people could use their influence, wealth, political positions, etc. to access the drugs while majority poor are left to detriment. Our researcher in Kigoma made very interesting observations on differentiation according to ones status.

> Equality and dignity is the most violated right. There was great differentiation among PLWHA themselves on the one hand and between PLWHA and the rest of the community on the other. Most PLWHA who come from rich families were treated with great care than those from poor families. From the 34 interviewees 80 percent came from poor families and the remaining 20 percent came from rich families.[48]

Already there are confusions over the correct dosage of the ARVs. At a certain time in the course of distribution patients were provided only with half doses since the amount in store could not last for a month. There is a need for further clarifications on these issues. Secondly, the distribution centre should be increased to reach people in the rural areas who are mostly hard hit and less informed. There is a need for the government to make available the information about the exact quantities of a medicine that they need to purchase. An important step would be to expand networks of health centres with large numbers of well trained medical practitioners to advice patients. In addition government agencies should monitor and penalize any practitioner known to over prescribe or cheat.

The benefits of the life-prolonging drugs are many and substantial. It has been observed that many PLWHA who have received prompt medical treatment have been able to continue to work and produce food and thus contributing to national development. This, in turn has helped reduce food insecurity, malnutrition, etc. for a wide section of the community. In sum the ARVs adds hope of a prolonged life to PLWHA.

Access to treatment could severely be impaired if people are discriminated or treated unequally for whatever reason. If the care centres are turned into places where people are broken hearted instead of being given hope, the results could be devastating. We asked respondents whether they have ever suffered discrimination or been treated unequally because of their HIV/AIDS status. The results are presented in Table 5.4.

Table 5.4: Have you ever suffered discrimination or been treated unequally because you have HIV/AIDS?

	Frequency	Percent
Yes	99	47.7
No	105	50.5
NA	16	1.9
Total (N)	**220**	**100**

Table 5.5: How have you been discriminated against?

	Frequency	Percent
Estrangement from family	50	15.8
Estrangement from friends	52	16.5
Separation from spouse/ partner	31	9.8
Exclusion from education	2	0.6
Loss of employment	18	5.7
Physical abuse	14	4.4

[48] Clemence, op. cit

Emotional abuse	40	12.7
Social alienation	48	15.2
Discrimination	16	5.1
Loss of property	14	4.4
Refusal of employment	9	2.8
Loss of income	22	7.0
Total (N)	**316**	**100**

It has been found out that access to medical care is hampered by discrimination and unequal treatment. This is a serious problem, as we would have expected people who offer social services to be in the forefront in the fight against violation of human rights particularly discrimination. It was found that half of the respondents (47.6 percent) suffered discrimination or have been unequally treated because they have HIV/AIDS Table 5.4). When asked to specify instances of discrimination, it was found out that estrangement from family as well as from friends, and social alienation were chronic instances of violation of human rights [(respectively having more than 15 percent of respondents having suffered these kinds of violation (Table 5.5)].

This is a definitely an abrogation of a basic constitutional right. The constitution of the United Republic of Tanzania is firm on this. Article 13 (4) explicitly states: "No person shall be discriminated against by any person or any authority acting under any law or in discharge of the functions or business of any state office". Section 5 removes all ambiguities of what constitute discrimination:

> For the purpose of this Article, the expression "discriminate" means to satisfy the needs, rights or other requirements of different persons on the basis of their nationality, tribe, place of origin, political opinion, colour, religion or station in life such that certain categories of people are regarded as weak or inferior and are subjected to restrictions or conditions whereas persons of other categories re treated differently or are accorded opportunities or advantage outside the specified conditions or the prescribed necessary qualifications.[49]

Access to Regular Care

It is very important that regular care is provided for to PLWHA. Most of them are supposed to have clinical sessions on a regular basis. They need counseling on how to lead a healthy life, how to avoid stigma and how to avoid further spread of the virus. This entails availability of trained and qualified staff to hand this benign assignment. It also means a good network of centres where one could access regular care. How accessible is regular care to PLWHA? Table 5.6 summarizes the findings.

Table 5.6: Is access to regular care for HIV/AIDS readily available?

	Frequency	Percent
Yes	115	54.2
No	90	42.5
NA	15	3.3
Total	**220**	**100**

It is heartening to note that majority of PLWHA are now able to access regular care for HIV/AIDS. It is not indicated from instance what kind of care do they access. Suffice it to say here that it is found that more than half of the respondents (54.2 percent) was able to access regular care. This, however does not offer any chance for celebrating the victory for a recast at Table 5.6 immediately indicates that there is another half (42.5 percent) of the population who do not have access to regular care.

[49] Constitution of URT part III

It is not enough just to receive or to have access to regular care. It is very important that professional ethics and standards are followed in provision of care to PLWHA and others who wish to access regular care. For this case we asked respondents whether they are treated with dignity when receiving HIV/AIDS care.

Table 5.7: Are you treated with dignity when receiving HIV/AIDS Care?

	Frequency	Percent
Yes	128	59.0
No	69	31.8
NA	23	9.2
Total	**220**	**100**

It was found that there was a high degree of professionalism when offering HIV/AIDS care. Out of 220 respondents, 128 (59.0 percent) indicate that they were treated with dignity when receiving HIV/AIDS care (Table 5.7). But again here our celebration mood is distorted by the fact that a staggering 31.9 percent is not treated with dignity when receiving HIV/AIDS care. The details are lost here as the question did not offer the chance for respondents to give us a feedback of specific undignified treatment.

Counseling Services

Pre-testing as well as post-testing counseling is very important for anybody who wants to know his/ her health status. Normally in these sessions one is prepared to receive information about his HIV status. More often than not the news are shocking both ways; whether somebody is infected or not. At times people are taken by the euphoria of knowing that they are negative after long periods of uncertainties. If the results are positive one is bound to loose hope of living which acerbates the negative consequences. Counseling aims in part to reduce any adverse impacts of the news. But even more importantly counseling is used as an educative session of how one can live a healthy life after testing, available medicine, associations that offer assistance, etc. counseling is as such a basic right to anybody who wants to test.

Table 5.8: Did you have access to counseling before receiving the test results?

	Frequency	Percentage
Yes	154	73.7
No	54	25.8
NA	12	0.5
Total	**220**	**100**

Table 5.9: Did you have access to counseling after receiving the test results?

	Frequency	Percentage
Yes	200	95.7
No	7	3.3
NA	13	1.0
Total	**220**	**100**

It was found that majority of respondents who tested for HIV/AIDS had access to counseling before and after receiving the result. In comparative terms the number of respondents increased after receiving the test results. While only 73.7 percent (154 out of 220 respondents) had access to counseling before receiving the test results (Table 5.8) 95.7 percent (200 out of 220 respondents) had access after receiving the test results (Table 5.9). Only 3.3 percent (7 out of them) did not have access to counseling after receiving the results.

CHAPTER SIX

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

The nature, extent and implications of human rights abuses have been discussed in this report. It has been found out that HIV/AIDS poses a great human rights challenge. As a result of HIV/AIDS the right to life is severely curtailed. The findings indicate that most of the casualty is young, energetic people of age group 15 - 45 years. The impact of this is not hard to find out. At economic level, the workforce is greatly reduced leading to further social problems worst of all the inability to fight the disease. The life expectancy has dropped drastically.

Despite the fact that people have started to talk openly about HIV/AIDS, there is very little improvement in the general behaviour concerning the rights of PLWHA. There is rampant human rights abuse at the level of the state, government institutions down to individuals. Discrimination, expulsion from work, estrangement from family and spouses are still common practices in Tanzania.

The plight of PLWHA is in desperation. Most of them lead destitute life lacking even the basic necessities of life. Although some organizations have devoted their energy to help PLWHA, this help is still a drop at the sea. In most cases it is inadequate and not sustainable. More efforts should be directed to this direction. The government has not done much in helping improving the life situation of PLWHA.

The report also found that ignorance and lack of knowledge and information contributes a lot towards continuing human rights abuses. The more educated the people the less likely they are to violate human rights, including the rights of PLWHA. Most respondents were not aware of their basic human rights. As a result of stigma, many people will not want to disclose their HIV status for fear of stigma. Silence reigns and the spread of the disease continues unabated. It was found that people depend on the media as a key informant on many things concerning HIV/AIDS. For the people in urban centres access to media is unhampered but for those living in rural areas accessing the media may be difficult. Most of privately owned media, for instance do not have a nation-wide coverage. Others such as newspapers have a cost implication and most people in rural areas lack hard cash with which to buy newspapers.

Access to medical facilities as well counseling services is still an area of concern. Although some pharmaceutical companies have made some breakthroughs in the area of treating opportunistic diseases common among PLWHA, the prices are prohibitive. Most of poor Tanzanians can not afford to buy them even at a subsidized rate. People with little or no access to health services are generally weakened by untreated illness and so become more vulnerable to HIV when exposed. HIV/AIDS has been associated with the persistence of untreated sexually transmitted diseases, such as syphilis and gonorrhea. The introduction of cost sharing has reduced public access to public health provision.
Counseling is expected to be a source of informed decisions to individuals. But in most cases access to counseling services is hampered. This is aggravated by the fact that most Tanzanians do not have the habit of seeking medical counseling on a regular basis. They will seek medical advice only when something has gone wrong.

Recommendations

Serious government intervention is needed in the HIV/AIDS and human rights issue in Tanzania. Any attempt to isolate HIV/AIDS from human rights concerns is doomed to fail, as the two are inseparable. The government should do more to educate people about the nature and implications of human rights abuses related to HIV/AIDS in Tanzania. Correct information concerning the HIV/AIDS situation in Tanzania should be made available to the majority of Tanzanians. While the media has been seen to be a good avenue of passing information more effort could be concentrated there without neglecting other avenues.

In short what is being advocated here is that a successful government intervention should not only encompass the medical scientific aspects but it must continue to include sociological, economic, religious, cultural and others in a fully multidisciplinary manner.

Part of the response of the government to a multi-sectoral and multi-dimensional approach to the HIV/AIDS pandemic has been to establish TACAIDS as a coordinating body. But TACAIDS also falls short of this expectation. Its mission and vision should encompass human rights as central to any intervention to reduce the adverse effect of the epidemic. HIV infection and AIDS have emerged as the most challenging health problem of our time. The pandemic has raised difficult medical issues as well as some legal and ethical questions. This pandemic requires a comprehensive solution that aims at not only tackling the medical questions but also the legal and ethical issue associated with HIV/AIDS. It has been observed for instance, now that HIV/AIDS is foremost a human right s problem. Any efforts at addressing the problem should address human rights concerns of not only PLWHA but also the society at large.

The Ministry of Health should establish specific programmes aimed at eliminating stigma among health workers. Health workers are very important as they deal directly with lives and wellbeing of PLWHA. If ethical and professional standards are not full adhered to as we have seen in this report, the impact would be adverse and devastating. A health centre should be a first place to one who has lost hope of living.

Provision of ARVs is a positive step in recognizing the right to life of PLWHA. These should be made available to the people in rural and remote areas who suffer a double disadvantage of lacking information on both the preventive measures and access to essential drugs. There are serious implications of not providing ARVs. We have witnessed people being coined by a few unscrupulous people who take advantage of the disease and the lack of information to make illegal money. But there are also instances of people taking less than the prescribed dosage thus developing resistance to ARVs.

There are fundamental legal and ethical issues involved in HIV/AIDS research, HIV/AIDS testing and handling of HIV/AIDS victims that have to be addressed by a national HIV/AIDS policy. The way practitioners handle these legal and ethical issues will have either a negative or positive impact on the national efforts to control the spread of HIV/AIDS. We submit that Tanzania's national HIV/AIDS policy has not given legal and ethical questions their due attention to make them contribute positively to the national efforts to control AIDS. The government needs to re-address legal and ethical issues associated with the HIV/AIDS if its effort to arrest the spread of this catastrophe is to bear fruits.

Since the question of access to medicine is of crucial importance the government should explore as many options as possible. One such option is the one that the Ugandan government adopted. According to an Oxfam[50] report 80 percent of imported drugs used for prevention of AIDS in Uganda are generics. This enabled consumers in Uganda to have a choice between a patented product that has a higher price and lower price benefit generic substitute. Secondly, the competition may pressurize the producer of patented item to lower its price.

Tanzania could also take a cue from South Africa. After considering the negative effects HIV/AIDS was having on their workers, enterprises as well as employers decided to provide free or subsidized medicines for employees. This is contrary to the practice in Tanzania where there are cases of employees having their contracts terminated simply because they are known to be HIV positive. In fact enterprise will find this in

[50] Oxfam *The US Must Stop Blocking Access to HIV/AIDS Drugs.*

their interest since the medicine would help improve their employees' medical condition and enable them to continue to work effectively.

Most prevention efforts have been limited to increasing individual awareness about the risks of transmission without taking into account the context within which such risks are taken. How, for instance would a condom be effective for married couples? What happens when a couple with one partner affected HIV/AIDS wants to have a baby?

Stigmatization and discrimination against PLWHA is a human rights abuse and must be dealt with firmly from all walks of life. The government has declared HIV/AIDS a national crisis as such it should be fought from all angles. People should take on the fight. They should not be afraid to speak up. They should not be afraid to challenge their government to do something about violation of human rights of PLWHA. In the final analysis it is their lives at stake.

While we argue people to take the fight, the lead should come from the civil society. In Tanzania we have a vibrant civil society which at times has been at loggerheads with the state. This vibrancy needs to be enhanced in the fight against stigma, discrimination and other evils suffered by PLWHA.

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APPENDIX