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**THE HIV AND AIDS (PREVENTION AND CONTROL)
ACT, 2007**

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NOTICE

The following Bill to be submitted to the National Assembly is published for general information to the public together with a statement of its objects and reasons.

Dar es Salaam,
20th September, 2007

PHILLEMONT L. LUHANJO,
Chief Secretary

A BILL

for

An Act to provide for prevention, care and control of HIV and AIDS and for promotion of public health to persons living with HIV and AIDS; for appropriate treatment, where resources allow, counselling and care for persons living with or at risk of HIV and AIDS and for related matters.

ENACTED by Parliament of the United Republic of Tanzania

PART I PRELIMINARY PROVISIONS

1. This Act may be cited as the HIV and AIDS (Prevention and Control) Act, 2007 and shall come into force on a date the Minister may, by Notice published in the *Gazette*, appoint.

Short
Title

2. This Act shall apply to Mainland Tanzania.

Aplicati-
tion

3. In this Act unless the context otherwise requires –
"AIDS" means Acquired Immuno-Deficiency Syndrome, which is a condition characterised by a combination of signs and symptoms, caused by HIV which attacks and weakens the body's immune system, making the afflicted individual susceptible to other life- threatening infections;

Inter-
pretation

- Cap. 379 "AIDS Committee" has the meaning ascribed to it under the Tanzania Commission for AIDS Act;
- "ARVs" means Anti Retroviral Drugs;
- "CBO" means a Community Based Organization;
- "Committee" means the National HIV and AIDS Research Fellowship Committee established under section 36;
- Cap. 226 "COSTECH" means Commission for Science and Technology established by the Tanzania Commission for Science and Technology Act;
- "court" means the High Court and courts subordinate thereto with exception to primary court;
- "FBO" means a Faith Based Organisation;
- "health practitioner" means any person trained to care for patients;
- "HIV negative" means absence of HIV or HIV antibodies upon HIV testing;
- "HIV positive" means presence of HIV infection as documented by the presence of HIV or HIV antibodies in the sample being tested;
- "HIV testing" means any laboratory procedure done on an individual to determine the presence or absence of HIV infection;
- "HIV transmission" means the transfer of HIV from one infected person to an un infected person, most commonly through sexual intercourse, blood transfusion, sharing of intravenous needles, during pregnancy or breast feeding;
- "HIV and AIDS monitoring and evaluation framework" means documentation and analysis of the number of HIV and AIDS infections and the pattern of its spread;
- "HIV and AIDS prevention and control" means measures aimed at protecting non infected person from contracting HIV and minimizing the impact of the condition of persons living with HIV;
- "Human Immuno-deficiency Virus (HIV)" means the virus which causes AIDS;
- "informed consent" means the voluntary agreement of a person to undergo or be subjected to a procedure based on full information, whether such agreement is written, conveyed verbally or indirectly expressed; "learning institutions" includes primary and secondary schools, colleges, universities and other higher learning institutions;
- Cap. 287 and 288 "local government authority" means the local government authority established under the Local Government (District Authorities) Act and the Local Government (Urban Authorities) Act;
- "Minister" means the Minister responsible for health;
- "Ministry" means the ministry responsible for health;

- "NACP" means National AIDS Control Programme, established within the Ministry;
- "NGO" shall have the meaning ascribed to it under the Non Governmental Organizations Act; Cap. 56
- "NIMR" means the National Institute for Medical Research established by the National Institute for Medical Research Act; Cap. 59
- "positive prevention" means the provision of public health promotion to persons living with HIV and AIDS.
- "Private Health Laboratory Board" has the meaning ascribed to it under the Private Health Laboratories (Regulation) Act; Cap. 136
- "private health laboratory" shall have the meaning as ascribed to it under the Private Health Laboratories (Regulation) Act; Cap. 136
- "research incentives" means compensation for time or other resources expended by a human subject participating or taking part in a clinical trial;
- "Secretary" means the secretary to the Committee referred to under section 36;
- "sexual partner" means a person involved in sex;
- "Stigma" is an attitude of condescension or disrespect towards another person because one knows or suspect that person is infected with HIV, or because that person has close relationship with a person known or suspected to be infected with HIV;
- "stigmatize" means -
- (a) to vilify, or to incite hatred, ridicule or contempt against a person or group of persons on the grounds of an attribute of the person or of members of the group living with HIV and AIDS, by publication, distribution or dissemination to the public; or
 - (b) the making of any communication to the public, including any arctic or gesture, that is threatening, abusive, insulting, degrading, demeaning, defamatory, disrespectful, embarrassing, critical, provocative or offensive;
- "STIs" means Sexually Transmitted Infections;
- "TACAIDS" means the Tanzania Commission for AIDS established under the Tanzania Commission for AIDS Act.

PART II GENERAL DUTIES

4.-(1) Every person, institution and organization living, registered or operating in Tanzania shall, be under the general duty to-

General
Duties

- (a) promote public awareness on causes, modes of transmission, consequences, prevention and control of HIV and AIDS;
- (b) reduce:
 - (i) the spread of HIV and AIDS;
 - (ii) prevalence of STIs in the population;
 - (iii) adverse effects of HIV and AIDS;
- (c) protect rights of the orphans by -
 - (i) providing health care and social services;
 - (ii) prohibiting compulsory HIV testing unless provided for under this Act;
 - (iii) fighting stigma and discrimination;
- (d) discourage negative traditions and usages which may enhance HIV and AIDS spread in the community:
- (e) promote all traditions and usages which may reduce the transmission and prevalence of the infection in the community:
- (f) increase access, care and support to persons living with HIV and AIDS from community or health care facilities.

- (2) The Government, political, religious and traditional leaders shall-
 - (a) integrate or prioritise on HIV and AIDS in their proceedings and public appearances;
 - (b) advocate against stigma and discrimination of people living with HIV and AIDS.

- (3) Every person discharging a duty under subsection (1), and (2) shall be under obligation to consult or liaise with TACAIDS for purpose of ensuring that resources are evenly distributed within Lanzania in order to-
 - (a) avoid concentration of such resources in one geographical area; and
 - (b) initiate pre-informed activities intended to prevent and control HIV and AIDS.

The
Ministry
to
promote
safety
measures
and
precau-
tions

5. The Ministry shall promote utmost safety and universal precautions in invasive medical or non medical practices and procedures in order to reduce the risk of transmission of HIV and AIDS.

6.-(1) Every ministry, department, agency, local government authority, parastatal organization, institution whether public or private, shall design and implement gender responsive HIV and AIDS plans in its respective area and such plans shall be mainstreamed and implemented into the activities of such sector.

(2) Every FBO shall undertake deliberate efforts in prevention, care and control of HIV and AIDS through special plans and programmes in its activities.

(3) Civil societies and private organizations shall, in collaboration with the Government, sign and implement plans and programmes aimed at or geared towards prevention, care of patients and control of HIV and AIDS in their respective areas.

(4) Every sector preparing a plan or programme under this section shall before implementation of such plan or programme, submit them to TACAIDS for coordination and advice.

PART III

PUBLIC EDUCATION AND PROGRAMMIS ON HIV AND AIDS

7. It shall be the responsibility of the Ministry in consultation with the respective local government authority and other relevant stakeholders to formulate education programmes relating to prohibition of stigma and discrimination against persons living with HIV and AIDS, taking care of patients and prevention of STIs.

Public
education
and
program-
mes on
HIV and
AIDS

8.-(1) The Ministry, health practitioners, workers in the public and private sectors and NGOs, shall for the purpose of providing HIV and AIDS education to the public, disseminate information regarding HIV and AIDS to the public.

Dis-
semina-
tion of
HIV and
AIDS
informa-
tion

(2) Dissemination of HIV and AIDS education and information shall form part of the delivery of health care services by health practitioners, and workers in the public and private sectors.

9. Every employer in consultation with the Ministry shall establish and coordinate a workplace programme on HIV and AIDS for employees under his control and such programme shall include provision of gender responsive HIV and AIDS education, distribution of condoms and support to people living with HIV and AIDS.

HIV and
AIDS
education
in work
place

Training
of health
practi-
tioners

10. The Ministry shall for the purpose of ensuring prevention and control of HIV and AIDS to the public, develop and conduct programmes to train health practitioners on universal precaution measures on HIV/AIDS and STIs and treatment procedures and such programmes shall, where resources allow, be adopted by health institutions.

Donation
of
tissues,
blood or
blood
products

11.-(1) A person may on his own motion, volunteer to donate a tissue, organ, blood or blood products to the recognized laboratory or institution.

(2) No laboratory or institution shall accept a donation of tissue or organ, whether such donation is gratuitous or not, unless a sample from the donor has tested negative for HIV.

(3) No laboratory or institution shall transfuse blood or blood products whether such blood or blood products are donated gratuitously or not, unless a sample from that donation has tested negative for HIV.

(4) Any blood, blood product, tissue or organ which has been tested positive for HIV shall be disposed of immediately and properly.

(5) Any person who contravenes the provisions of this section commits an offence and upon conviction shall be liable-

(a) in case of an individual to a fine not less than two hundred thousand shillings or to imprisonment for a term of not less than six months; or

(b) in case of a laboratory or an institution to a fine not less than five million shillings.

Surgical
dental
and
similar
pro-
cedures

12.-(1) Every health practitioner shall during surgical, dental and similar procedures have a duty to ensure that-

(a) parenteral exposure (sharp objects) are handled with care during performance of any procedure;

(b) at all levels of health care, delivery services, and in case of accident, he uses the necessary tools such as gloves, goggles and gowns;

(c) he handles and disposes of used syringes and other material used in blood testing; and

(d) he handles and disposes of in an appropriate manner body fluids or wastes of persons known or believed to be infected with HIV.

(2) A person who is the owner, manager or the in charge of health care facility shall have a duty to ensure-

- (a) the provision of post exposure prophylaxis;
- (b) the provision of necessary tools such as gloves, goggles and gowns;
- (c) appropriate handling and disposition of used syringes, materials used in blood testing and body fluids or wastes of persons known or believed to be infected with HIV.

(3) A person who contravenes the provisions of this section commits an offence and upon conviction shall be liable to a fine of not less than five hundred thousand shillings.

PART IV

TESTING AND COUNSELLING

HIV
testing

13.-(1) For the purposes of facilitating HIV testing, every public health care facility and voluntary counselling and HIV testing centre recognized by the NACP shall be an HIV testing center for the purpose of this Act.

(2) The Private Health Laboratory Board may, by Order published in the *Gazette*, accredit any private laboratory to be an HIV testing center.

(3) Every health practitioner performing or otherwise involved in the performance of an HIV test shall take all measures to ensure that-

(a) the testing process is carried out promptly and efficiently; and

(b) the result of the HIV test is communicated in accordance with this Act.

(4) A person shall not undergo HIV testing except in a center provided for under this Part.

(5) For the purposes of this section HIV testing centre includes any centre established in any place for the purposes of HIV testing.

14. Any person who is the owner, manager or incharge of a testing center shall ensure that there is a trained and authorized person to provide pre and post HIV test counselling to a person undergoing HIV test, and where feasible, to any other person likely to be affected by the results.

Counsel-
ling

Prohibition of compulsory HIV testing

15.-(1) Every person residing in Tanzania may on his own motion volunteer to undergo HIV testing.

(2) A child or a person with inability to comprehend the result may undergo HIV testing after a written consent of a parent or recognized guardian.

(3) A person shall not be compelled to undergo HIV testing.

(4) Without prejudice to the generality of subsection (3), no consent shall be required on HIV testing-

(a) under an order of the Court;

(b) on the donor of human organs and tissues; and

(c) to sexual offenders.

(5) Every pregnant woman and every person attending a health care facility shall be counselled and offered voluntary HIV testing.

(6) All health practitioners, traditional and alternative health practitioners, traditional birth attendants and any other person attending patients shall be encouraged to undergo HIV testing.

(7) Any health practitioner who compels any person to undergo HIV testing or procures HIV testing to another person without the knowledge of that other person commits an offence.

(8) Without prejudice to the preceding subsections, a medical practitioner responsible for the treatment of a person may under take HIV test in respect of that person without the consent of the person if-

(a) the person is unconscious and unable to give consent; and

(b) the medical practitioner reasonably believes that such a test is clinically necessary or desirable in the interest of that person.

Test result

16.-(1) The results of an HIV test shall be confidential and shall be released only to the person tested.

(2) Notwithstanding subsection (1), the results of an HIV test may be released to-

(a) in case of a child, his parent or recognized guardian;

- (b) in case of person with inability to comprehend the results, his spouse or his recognized guardian;
- (c) a spouse or a sexual partner of an HIV tested person; or
- (d) the court, if applicable.

PART V
CONFIDENTIALITY

17.-(1) All health practitioners, workers, employers, recruitment agencies, insurance companies, data recorders and other custodians of any medical records, files, data or test results shall observe confidentiality in the handling of all medical information and documents, particularly the identity and status of persons living with HIV and AIDS.

Medical confidentiality

(2) A person who received results under section 16 shall be obliged to observe confidentiality in respect of the HIV result received by him under that section.

Exceptions to confidentiality

- 18.** The medical confidentiality shall not be considered breached in-
- (a) complying with reportorial requirements in conjunction with the monitoring and evaluation programmes;
 - (b) informing other health practitioners directly involved or about to be involved in the treatment or care of a person living with HIV and AIDS;
 - (c) responding to an order of the Court over legal proceedings where the main issue is HIV status of individual; or

PART VI
HEALTH AND SUPPORT SERVICES

19.-(1) The Government shall, where resources allow ensure that, every person living with HIV and AIDS and orphans are accorded with basic health services.

Basic health services to persons living with HIV and AIDS

(2) Every CBO, Private Organization and FBO dealing with HIV and AIDS matters shall in consultation with the local government authority in the area of its jurisdiction, provide community based HIV and AIDS prevention and care services.

20. The Ministry shall, in collaboration with other relevant ministries prepare programmes and conduct training for persons living with HIV and AIDS on-

Programmes on survival life skills and palliative services

- (a) their survival needs;
- (b) life skills; and

- (c) formation of support groups for the purpose of providing palliative services and care.

Prevention
of
transmis-
sion

21.-(1) Any person who has knowledge of being infected with HIV after being tested shall-

- (a) immediately inform his spouse or sexual partner of the fact: and

- (b) take all reasonable measures and precautions to prevent the transmission of HIV to others.

(2) The person referred to under subsection (1) shall inform his spouse or his sexual partner of the risk of becoming infected if he has unsafe sex with such person unless that other person knows that fact.

Prevention
and
control of
STIs

22. The Ministry shall-

- (a) ensure that STIs services are strengthened; and

- (b) create public awareness on STIs as far as it relates to transmission of HIV and AIDS.

Condoms

23.-(1) The Ministry shall quantify requirement of condoms in Tanzania by espousing different stakeholders, mobilizing resources required for procurement of condoms generally with a view to ensuring availability of condoms of standard quality in Tanzania.

(2) No condoms shall be manufactured *or* imported to Tanzania unless the condoms conform with the standards provided by the Tanzania Bureau of Standards.

(3) Any person who contravenes the provisions of subsection (2) shall, on conviction be liable in case of-

- (a) an individual, to a fine of not less than ten million shillings or to imprisonment for a term not less than three years or to both; and

- (b) a body corporate, to a fine of not less than fifty million shillings.

Access to
healthy
care
facility

24.-(1) A person being the owner, manager or incharge of health care facility or medical insurance whether public or private shall facilitate access to health care services to persons living with HIV and AIDS without discrimination on the basis of their status.

(2) The Ministry shall, where resources allow, take necessary steps to ensure the availability of ARVs and other health care services and medicines to persons living with HIV and AIDS and those exposed to risk of HIV infection.

25.-(1) The Ministry shall regulate the care and treatment of HIV infected pregnant women, mothers infected with HIV while giving birth and measures to reduce HIV transmission from mother to child.

Prevention of transmission from mother to child

(2) In an endeavor to prevent the mother to child transmission of HIV-

- (a) trained and authorized persons shall provide counselling services to HIV infected pregnant and breast feeding women;
- (b) health care facilities shall monitor, provide treatment and apply measures necessary to reduce HIV transmission from mother to child.

26. A health practitioner who is exposed to or infected with HIV in the course of rendering health care services to a person living with HIV/AIDS shall be entitled to-

Post exposure prophylaxis

- (a) post exposure prophylaxis;
- (b) treatment or access to continuum of care in case of HIV diagnosis; and
- (c) compensation for any loss or pecuniary loss directly resulting from infection with HIV.

27.-(1) All statements or information regarding the cure of HI V and AIDS shall be subjected to scientific verification before they are announced.

Misleading information or statement

(2) Publication of statements or information referred to under subsection (1) shall be attached with both evidence of pre- and post- cure HIV test results.

(3) A person who makes or causes to be made any misleading statement or information regarding curing, preventing or controlling HIV and AIDS contrary to this section commits an offence and shall be liable on conviction to a fine of not less than one million shillings or to imprisonment for a term of not less than six months or to both.

PART VII

STIGMA AND DISCRIMINATION

Prohibition of discriminatory laws, policies and practice

28. A person shall not formulate a policy, enact any law or act in a manner that discriminates directly or by its implication persons living with HIV and AIDS, orphans or their families.

Restriction of health practitioners to stigmatize or discriminate

29. Any health practitioner who deals with persons living with HIV and AIDS shall provide health services without any kind of stigma or discrimination.

Prohibition of other forms of discrimination

30. A person shall not-

- (a) deny any person admission, participation into services or expel that other person from any institution;
- (b) deny or restrict any person to travel within or outside Tanzania;
- (c) deny any person employment opportunity;
- (d) deny or restrict any person to live anywhere; or
- (e) deny or restrict the right of any person to residence, on the grounds of the person's actual, perceived or suspected HIV and AIDS status.

Prohibition of stigma and discrimination

31. A person shall not stigmatize or discriminate in any manner any other person on the grounds of such other person's actual, perceived or suspected HIV and AIDS status.

Offences relating to stigma and discrimination

32. Any person who contravenes any provision under this Part commits an offence and on conviction shall be liable to a fine not less than two million shillings or to imprisonment for a term not exceeding one year or to both.

PART VIII

RIGHTS AND OBLIGATIONS OF PERSONS LIVING WITH HIV AND AIDS

Rights and obligations of persons living with HIV/AIDS orphans, etc

33.- (1) Any person living with HIV and AIDS shall where the resources allow have-

- (a) a right to the highest attainable standard of physical and mental health; and
- (b) a right to treatment of opportunistic infections.

(2) Any person living with HIV and AIDS shall, subject to the provisions of subsection (1), have an obligation to-

(a) protect others from infection; and

(b) hare in scientific advancement and its benefits.

34.-(1) Every local government authority, shall design, formulate, establish and coordinate mechanisms and strategic plans for ensuring that the most vulnerable children within its respective area are afforded means to access education, basic health care and livelihood services.

Access to education and basic health care services

(2) The Minister may, in consultation with the Minister responsible for local government, make regulations setting out criteria for identifying the most vulnerable children referred to under subsection (1),

(3) For the purpose of this section, the term "most vulnerable children" includes orphans.

35. (1) Every NGO, CBO, FBO, Private Organization and any person receiving aid and assistance for the purpose of providing preventive, treatment and care to persons living with HIV and AIDS, widows, widowers or orphans shall ensure that the aid and assistance so received is used for that purpose,

Prohibition of misuse of aid by NGOs CBOs private organizations etc

(2) Any person who misuses any aid or assistance aimed at providing services to persons living with HIV and AIDS, widows, widowers or orphans, commits an offence and shall be liable on conviction-

(a) in case of an individual, to imprisonment for a term of not less than three years;

(b) in case of a body corporate. to a fine of not less than five million shillings and deregistration from the Register of NGOs, CBOs or FBOs, as the case may be,

PART IX

ESTABLISHMENT OF RESIEARCH COMMITTEE

36.-(1) There shall be established a Committee to be known as the National HIV and AIDS Research Fellowship Committee.

National HIV and AIDS Research Fellowship Committee

(2) The Committee shall comprise of the following members-

(a) the Chairman;

(b) one member from the National AIDS Control Programme;

- (c) one member from TACAIDS;
- (d) one member representing higher learning institutions;
- (e) one member representing the Attorney General;
- (f) one member representing private AIDS research bodies;
- (g) one member from NIMR;
- (h) one member from COSTECH; and
- (i) one member from Muhimbili National Hospital,

(3) All members referred under subsection (2) shall be appointed by the Minister.

(4) The Director for Preventive Services in the Ministry shall be the Secretary to the Committee.

(5) The tenure of office, meetings and other procedural matters of the Committee shall be as set out in the Schedule to this Act.

Functions
of the
Committee

37.-(1) The Committee shall be responsible for:-

- (a) evaluating all proposals submitted for funding within the HIV and AIDS Research Fellowship Programme in respect to scientific quality, appropriateness as to priority area of research and funding level requested;
- (b) establishing the criteria for evaluating and funding the submitted proposal;
- (c) awarding best, research proposals fellowships of at least ten million Tanzanian shillings and maximum of fifty million Tanzanian shillings; and
- (d) advertising the fellowship programmes on an annual basis.

(2) The functions, activities and other expenses of the Committee shall be funded by the Ministry.

Ethics
clearance

38.-(1) All proposals seeking funding support from the Committee shall be required to submit evidence of having obtained ethical clearance of their proposals from the National Research Ethics Committee of the NIMR, COSTECH or other research ethics bodies established under any written laws.

(2) All research on HIV and AIDS involving local and multinational researchers shall require approval by the National HIV and AIDS Research Fellowship Committee.

39. For the purpose of research conducted under this Part every international research team shall include a national counterpart who shall be responsible for that study in Tanzania.

Research
by
International
teams

40.-(1) The Committee shall establish a mechanism for monitoring researches funded by the Committee by requiring a quarterly or six monthly report from persons awarded fellowships.

Research
Monitoring

(2) After a research fellowship project has been completed, the research fellow shall be required to submit the final report of activities and budgeted expenditure to the Committee and copies of all publications originating from the funded project to NACP, TACAIDS and NIMR.

41.-(1) The Ministry in collaboration with the relevant institutions may institute trials on HIV and AIDS vaccines, medicines and other related bio- products within the country, provided that such trials shall not endanger the health of persons undergoing such trials.

Vaccine
Trials and
Research
on
persons

(2) A person shall not undertake HIV and AIDS related bio-medical research on another person or on any tissue or blood removed from such person unless-

(a) there is informed consent of that other person; or

(b) where that other person is a child, there is informed consent of a parent or legal guardian of the child.

(3) For the purpose of subsection (2), a person whose consent is, sought to be obtained, shall be adequately informed of the aims, methods, anticipated benefits and potential hazards and discomforts of the research.

(4) The person who is the subject of the research shall be adequately provided with research incentives as far as ethical regulations are concerned.

42.-(1) The public and private institutions shall maintain inventory of fall on going and completed research projects on HIV and AIDS and TACAIDS shall compile and disseminate relevant research findings to the public.

Dissemination
of
research
finding

(2) For the purpose of facilitating dissemination of research findings under this Part, researchers shall translate or cause to be translated research findings into Kiswahili and English languages for public consumption.

PART X

MONITORING AND EVALUATION

Monitoring

43. The Ministry shall establish a comprehensive system of monitoring mechanisms to determine the magnitude and progression of HIV infections and other matters relating to HIV and AIDS.

Reporting
by health
care
facility

44. Every owner, manager or the incharge of a health care facility shall adopt measures issued by the Ministry to ensure the reporting and confidentiality of any medical records and personal data relating to HIV and AIDS including all information which may be accessed from various data.

Diagnoses
and
reporting

45.-(1) Every institution, hospital, laboratory, clinic and blood bank in the Regions and Districts shall be required to diagnose and report HIV and AIDS cases to the Ministry.

(2) The information referred to under subsection (1) shall be submitted to TACAIDS for inclusion in the HJV and AIDS Monitoring and Evaluation Framework.

PART XI

OFFENCES AND PENALTIES

Offences
relating to
breach of
confi-
dentiality

46. Any health practitioner or any person referred to under section 16 and 17 who-

(a) breaches medical confidentiality; or

(b) unlawfully discloses information regarding HIV and AIDS status of any person,

commits an offence, and on conviction shall be liable to a fine of not less than five hundred thousand shillings or to imprisonment for a term not less than six months or to both.

47. Any person who willfully and intentionally transmits HIV to another person commits an offence, and on conviction shall be liable to life imprisonment.

Offences relating to spreading HIV

48. Any person who willfully breaches any provisions relating to safe procedures and practices commits an offence and on conviction shall be liable-

Offences relating to breach of safe practices HIV

(a) in case of an individual, to a fine of not less than two hundred thousand shillings or to imprisonment to a term of a not less than three months; and

(b) in case of a health care facility, to a fine of not less than three million shillings.

49.-(1) It shall be an offence for any person to obstruct or prevent any activity related to implementation of provisions of this Act in any manner whatsoever.

Penalty for offence relating To obstruction

(2) Any person convicted of an offence under this section, shall be liable to a fine of not less than one hundred thousand shillings or to imprisonment for a term not exceeding three months or both.

50. Any person, who commits any offence against the provisions of this Act shall be liable on conviction for every such offence except wherein any other section a specific penalty is provided to a fine of not less than two hundred thousand shillings or to imprisonment for a term not less than three months or to both such imprisonment and fine.

General penalty

PART XII.

MISCELLANEOUS PROVISIONS

51.-(1) Any complaint against contravention of any provision of this Act may be lodged in writing to-

Complaints

(a) the Secretary to the village, ward, district or urban AIDS Committees as the case may be;

(b) the police station; .

(c) the owner, manager or the incharge of a health care facility concerned; or

(d) the employer.

(2) Every complainant shall be required to give all the necessary information in relation to the complaint in question.

(3) The Minister may make regulations prescribing the mode of lodging complaints under this Act.

Regulations

52. The Minister may make regulations prescribing-

- (a) circumstances under which HIV testing results may be released to another person;
- (b) methods, programmes and coordination of distribution and use of ARVs;
- (c) the manner under which professional counselling shall be undertaken;
- (d) the conduct of HIV tests, informing of the results of HIV tests, reporting of HIV tests results and any other matter necessary or convenient in relation to HIV tests;
- (e) the preparation, maintenance and release of data relating to transmission, status of, and persons living with HIV and AIDS;
- (f) parenteral exposure (sharp instruments), syringes and other material used in blood testing and the manner of disposing them;
- (g) precautions to be taken by health practitioners against HIV transmission during surgical, dental, delivery services and any other similar procedures;
- (h) provision of post exposure prophylaxis at all levels of health care services and necessary tools such as gloves; goggles and gowns to all health practitioners;
- (i) the manner of handling and disposing of body fluids and wastes of persons known or believed to have been infected with HIV;
- (j) manner in which vaccines and other trials are to be conducted;
- (k) circumstances under which a person may be regarded to make misleading statement to the public regarding the persons living with HIV and AIDS, orphans and their families; .
- (l) circumstances under which a person may be regarded to stigmatize and discriminate a person living with HIV and AIDS, orphan and their families; and
- (m) anything which may be provided for the better carrying out the provisions of this Act.

53. Notwithstanding any provisions of this Act, no religious p organization or group shall be compelled in any manner to do or not to do anything which is against the belief of that organization or group so long p as such doing or, forbearance to do, does not contravene any provision of any written law.

Prohibition
of com-
pulsion

54. The Minister may, by Order published in the *Gazette*, amend, vary or replace the Schedule to this Act.

Amend-
ments of
Schedule

SCHEDULE

Made under section 36(5)

PROCEDURE AND CONDUCT OF MEETINGS OF THE COMMITTEE

1.-(1) The members shall elect a Vice-Chairman of the Committee from amongst their number.

Election of
the Vice-
Chairman

(2) The Vice-Chairman shall, subject to his continuing to be a member, hold office for a term of one year from the date of his election and shall be eligible for re-election.

2.-(1) The Committee shall ordinarily meet at such times and places as it deems necessary for transaction of its business, but shall meet at least once in every four months.

Meeting of
the
Committee

(2) The Chairman or in his absence the Vice Chairman, may at any time convene an extraordinary meeting of the Committee, upon a written request by the majority of members in office.

(3) The Chairman or in his absence the Vice-Chairman, shall preside at every meeting of the Committee and in the absence of both the Chairman and the Vice-Chairman, the members present shall appoint a member from amongst themselves to preside the meeting.

3. If a member of the Committee who is a member by virtue of his office is unable for any reason to attend any meeting of the Committee, he may nominate another person from his organization to represent him in the meeting.

Absent
members to
be
represented

4. The quorum at any meeting of the Committee shall be half of the members in office.

Quorum

5.-(1) Subject to sub-paragraph (2), matters proposed to be deliberated upon at a meeting of the Committee shall be decided by a majority of the votes of the members present, and in the event of an equality of votes, the person presiding over the meeting shall have a casting vote in addition to his deliberative vote.

Decision of
the
Committee

(2) Notwithstanding the provisions of subparagraph (1), where the Chairman so directs a decision may be made by the Committee without a meeting by circulation of the relevant papers among the members, and the expression of the views of the members in writing, shall constitute the decision of the Committee, but any member may require that the decision be deferred and the subject matter be considered at a meeting of the Committee.

Minutes
the
Meetings

6.-(1) The Committee shall cause to be recorded and kept minutes of all business conducted or transacted at the meeting and the minutes of each meeting of the Committee shall be read and confirmed or amended and confirmed at the next meeting of the Committee and signed by the person presiding and the Secretary to the meeting.

(2) Any minutes purporting to be signed by the person presiding and the Secretary at a meeting of the Committee shall, in the absence of proof of error, be deemed to be a correct record of the meeting whose minutes they purport to be.

Validity of
proceeding

7. The validity of any act or proceeding of the Committee shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.

Committee
may
regulate its
proceeding

8. Subject to the provisions of this Schedule, the Committee may regulate its own proceedings.

OBJECTS AND REASONS

The Bill is intended to enact a comprehensive law providing for prevention and control of HIV/AIDS. It proposes to use and combine public health, human rights and criminal law approaches to fight the same, and in provision of counseling and care for persons living with, or at risk of HIV/AIDS.

The Bill is divided into twelve major parts.

Part I provides for preliminary provisions, which include the title and scope of the proposed law. It also contains definitions of certain terms, designations and words used frequently in the Bill.

Part II proposes provisions relating to general principles regarding designing and implementation of HIV/AIDS strategic plans, and encouraging FBOs to make deliberate efforts in prevention and controlling of HIV/AIDS and provision of care services in their daily activities. In so doing players shall be required to liaise with TACAIDS in order to avoid concentration of resources in one or few areas.

Part III deals with public education and programmes on HIV/AIDS. The Part covers provision of public education and programmes on prohibition of stigma and discrimination, taking care of patients, prevention of STIs and making of protracted campaigns against HIV / AIDS in schools, higher learning institutions and work places.

Part IV deals with Matters relating to testing of blood and human organs donors, pregnant women and counseling of donors. It also encourages health practitioners, Traditional and Alternative Health Practitioners, Traditional Birth Attendants and any other person attending HIV/AIDS patients to under go HIV/AIDS testing.

Part V makes provisions on confidentiality on any information, medical records, file, data and test results of HIV/AIDS. However, the confidentiality can be waived due to reasons provided under the proposed Act.

Part VI deals with health and support services to PLHAs and orphans provided by Ministry, local government authorities, NGOS, CBOs and FBOs.

Part VII makes provisions relating to prohibition of stigma and discrimination to PLHAs and orphans. It also prohibits such behaviour and conducts in schools, employment, working places and in any other places.

Part VIII makes provisions for rights and obligations of Persons Living with HIV/AIDS. It is also proposed that local government authorities should design, formulate and co-ordinate strategic plans to ensure that most vulnerable children are given access to education and basic health care services. These include right to mental and physical health in highest attainable standard.

Part IX of the Bill deals with research on HIV/AIDS. It establishes a National Research Fellowship Committee. It also provides for functions and composition of the Committee.

Part X proposes provisions relating to monitoring and evaluation of certain issues provided for under the proposed Act.

Part XI deals with matters relating to offences and penalties which may be as a result of contravention of certain provisions of the proposed Act.

Part XII provides for miscellaneous provisions which include powers of the Minister to make regulations, prohibition of prohibition of compulsion and power of the Minister to amend Schedules set out in the proposed Act.

MADHUMUNINASABABU

Muswada huu unakusudiwa kutunga Sheria mahsusi katika kuzuia na kudhibiti VVU/UKIMWI nchini. Inapendekeza kutumia kwa pamoja mtazamo wa afya ya jamii, haki za binadamu na Sheria ya jinai katika kupambana na ugonjwa huo, katika kutoa ushauri nasaha na utoaji wa huduma za afya kwa watu wanaoishi au kuwa katika hatari ya kuambukizwa VVU/UKIMWI

Muswada huu umegawanyika katika sehemu kuu Kumi na Mbili.

Sehemu ya Kwanza inahusu masuala ya utangulizi ambayo yanajumuisha jina la Sheria inayopendekezwa na matumizi ya Sheria hiyo. Pia inatoa tafsiri ya baadhi ya majina na misemo muhimu iliyotumika mara kwa mara katika Muswada huu.

Sehemu ya Pili inapendekeza kuweka misingi muhimu katika kutayarisha na kutekeleza mipango mkakati inayohusu VVU/ UKIMWI, na kuhamasisha Mashirika ya Kidini (FBOs) kufanya juhudi thabiti katika kuzuia, kutoa huduma za kiafya na kudhibiti VVU/UKIMWI katika kutekeleza majukumu yao ya kila siku.

Sehemu ya Tatu inahusu utoaji wa elimu kwa umma na programu zinazohusu VVU/UKIMWI. Sehemu hii pia ina masharti yanayohusu elimu kwa umma na programu katika uzuiaji wa unyanyapaa na ubaguzi kwa wanaoishi na VVU/UKIMWI uhudumiaji wa wagonjwa, uzuiaji magonjwa ya ngono na upigaji wa kampeni endelevu dhidi ya VVU/UKIMWI katika mashule, vyuo vya elimu ya juu na sehemu za kazi.

Sehemu ya Nne inahusu masharti yanayohusu upimaji wa watoa damu au kuchangia viungo vya mwili, wajawazito na utoaji wa ushauri nasaha kwa wahusika yanaainishwa. Sehemu hii pia, inahamasisha wafanyakazi wa sekta ya afya, Waganga wa Tiba za Asili na Tiba Mbadala, Wakunga wa Jadi na mtu yeyote ambaye anatoa huduma kwa wagonjwa wa UKIMWI kupima VVU/UKIMWI.

Sehemu ya Tano inaweka masharti yanayohusu usiri katika taarifa, kumbukumbu za kidaktari, majalada, data na matokeo ya vipimo vya VVU/UKIMWI. Hata hivyo, usiri huo unaweza kuondolewa au kutozingatiwa kutokana na masharti yanayoainishwa katika Sheria hii inayopendekezwa.

Sehemu ya Sita inahusu utoaji wa huduma za msingi za afya na kijamii kwa waathirika wa UKIMWI pamoja na yatima waliofiwa na wazazi wao kutokana na UKIMWI. Pia inazuia tabia au mienendo hiyo katika mashule, ajira, sehemu za kazi au sehemu yoyote ile.

Sehemu ya Saba inaweka masharti yanayozuia unyanyapaa na ubaguzi kwa wanaoishi na VVU/UKIMWI.

Sehemu ya Nane inaweka masharti yanayohusu wajibu na haki zawanaoishi na VVU/UKIMWI; haki hizo zinajumuisha haki ya huduma ya afya ya akili na mwili katika kiwango cha juu kinachoweza kutolewa.

Sehemu ya Tisa ya Muswada huu inahusu Kamati Shiriki ya Taifa ya Utafiti wa VVU/UKIMWI. Sehemu hii pia inaainisha majukumu na wajumbe wa Kamati hiyo.

Sehemu ya Kumi inapendekeza masharti yanayohusu usimamizi na tathmini katika baadhi ya maeneo kama yalivyoainishwa katika Sheria inayopendekezwa.

Sehemu ya Kumi na Moja inaweka masharti yanayohusu makosa na adhabu ambazo zinaweza kutolewa endapo kunatokea ukiukaji wa masharti ya Sheria inayopendekezwa.

Sehemu ya Kumi na Mbili inaweka masharti ya jumla ambayo yanajumuisha mamlaka ya Waziri kutengeneza kanuni, pamoja na masharti yanayozuia ulazimishaji wa Mashirika ya Dini au kundi lolote la kidini kwenda kinyume na misingi ya dini ya mashirika au kundi hilo ili kutekeleza masharti ya Sheria inayopendekezwa, ilimradi imani hiyo haiendi kinyume au kukiuka Sheria nyingine yoyote.

Dar es Salaam,
20 Septemba, 2007

DAVID HOMELI MWAKYUSA,
Waziri wa Afya na Ustawi wa Jamii