



**Global
Criminalisation
Scan**



Country Assessment

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Tanzania

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Acronyms

AIDS	Acquired Immune Deficiency Syndrome
amfAR	The Foundation for AIDS Research
EAC	East African Community
EALA	East African Legislative Assembly
CAP	Chapter
GNP+	Global Network of People living with HIV
HIV	Human Immunodeficiency Virus
IDU's	Injecting Drug Users
LGBT	Lesbian, Gay, Bisexual and Transgender
LHRC	Legal and Human Rights Centre
MAT	Medication Assisted Treatment
MP	Member Of Parliament
NACOPHA	The National Council for People Living with HIV and AIDS
NGO	Non-Governmental Organization
PEPFAR	President's Emergency Plan for Aids Relief
PLHIV	People Living With HIV
RM	Resident Magistrate
SADC	Southern African Development Community
SAJEA	Strengthen Access to Justice Through Legal Sector Development Program In East Africa.
TAWLA	Tanzania Women Lawyers Association
TGNP	Tanzania Gender Networking Program
TLS	Tanganyika Law Society
UNAIDS	Joint United Nations Programme on HIV/AIDS
WILAC	Women's Legal Aid Centre

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We trust that these findings will contribute to improving the health and quality of life of all those in Tanzania affected by the HIV epidemic.

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Executive Summary

Objectives of the Scan

The Criminalisation Scan¹ in Tanzania was undertaken by the Tanzanian National Council of People Living with HIV and AIDS (NACOPHA) with the objective to map and document the existence of laws, practices and policies in existence in Tanzania that have an impact on responses to HIV.

“Criminalization of HIV transmission” is a phrase that is used to refer to enacting of laws directed at punishing behaviour that may transmit HIV and the application of general laws in a manner that targets those with HIV who may transmit the virus. The Global Criminalization Scan (The Scan) is a programme that was developed to respond to this growing trend. The Scan was developed by the Global Network of people living with HIV (GNP+) in partnership with regional PLHIV networks, supported by UNAIDS.

The Tanzanian Criminalisation Scan has looked at laws in relation to exposure and transmission of HIV as well as laws in relation to five ‘key populations’; people living with HIV, men who have sex with men (MSM), those involved in commercial sex work, injecting drug users, and prisoners².

In doing so we have attempted to map out protective as well as punitive laws and policies that impact on these groups. Punitive laws include those that criminalize unintentional HIV transmission, or are discriminatory toward people living with HIV. Protective law include those that prohibit discrimination on the basis of real or perceived HIV infection.

The criminalisation scan is one of five programmes implemented as part of the HIV Leadership through Accountability programme³. The program combines specific HIV evidence gathering tools, National AIDS campaigns, and targeted advocacy to achieve universal access to prevention, treatment care and support.

¹ The Global Criminalisation Scan is an initiative of GNP+ that can be accessed at <http://www.gnpplus.net/criminalisation/>

² The term ‘key populations’ in terms of this study refers to those from groups within the general population whose engagement is critical to a successful HIV response i.e. they are key to the epidemic and key to the response. In all countries, key populations include people living with HIV. In most settings, men who have sex with men, transgender persons, people who inject drugs, sex workers and their clients, and seronegative partners in serodiscordant couples are at higher risk of HIV exposure to HIV than other people.

³ More information about the programme can be accessed at <http://www.gnpplus.net/en/programmes/empowerment/hiv-leadership-through-accountability>



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Overview of relevant Epidemiology

As of 2011, UNAIDS estimated that approximately 1,600,000 Tanzanians were living with HIV, and there was a 5.8% prevalence rate⁴. Tanzania is typified as a generalised mature epidemic. However in common with many other low and middle income countries, sex workers, people who inject drugs, and men who have sex with men, and prisoners are at significantly higher risk of HIV infection than other groups⁵. From the information that we do have about HIV prevalence amongst these groups in Tanzania (which is not enough) we know that prevalence in Tanzania amongst MSM is at least 12.4 %⁶, substantially higher amongst female sex workers with some studies showing up to 60% prevalence along major truck routes⁷, and is substantially increasing amongst injecting drug users and may be more than 40% prevalence⁸, with some reports showing instances of 27% prevalence amongst men and 58% amongst women.

Main Findings

Each of the laws and standing orders reviewed⁹ has potential or actual bearing on the situation of PLHIV in Tanzania and in effectively countering the HIV/AIDS epidemic. The research revealed the following:

- The HIV and AIDS (Prevention and Control) Act, 2008, which came into effect in April 2008, was generally a progressive legislative move at the time; enshrining in law the aspirations of Tanzania to counter stigma and discrimination against people living with HIV. However redress mechanisms for individuals experiencing such discrimination are not resourced, and it contains sections regarding the 'intentional' transmission (criminalisation) of HIV which are problematic; arguably these are not in alignment the constitution of Tanzania, or in accordance with the most recent regional or international guidance developed to mount an effective response to HIV.
- The criminalisation of same sex relationships under the Tanzanian Penal Code, the harassment of LGBT individuals and/or organisations advocating for basic civil rights (such as freedom of assembly), as well as the denial of treatment to people living with HIV who are known or perceived to be MSM, is a barrier to providing an

⁴ <http://www.unaids.org/en/regionscountries/countries/unitedrepublicoftanzania/>

⁵

http://www.unaids.org/en/media/unaids/contentassets/documents/epidemiology/2012/gr2012/JC2434_WorldAIDSday_results_en.pdf

⁶ http://www.jhsph.edu/research/centers-and-institutes/center-for-public-health-and-human-rights/_pdf/Baral_GlobalArcOfJustice_AfricaMSM_Mar09.pdf

⁷ <http://www.benthamscience.com/open/totmj/articles/V002/27TOTMJ.pdf>

⁸ The Minister of State in the Prime Minister's Office of Policy, Co-ordination and Parliamentary Affairs, Mr William Lukuvi quoted in Tanzania Edition All Africa.com accessed 25th June 2012

⁹ These included: The HIV and AIDS (Prevention and Control) Act, 2008, The Penal Code Cap 16 R.E.2002, The Drugs and Prevention of Illicit Traffic in Drugs Act. Cap 95 R.E. 2002, The Prison Standing Orders (PSO) 2003. The Law of Marriage Act Cap 29 R.E. 2002, Prevention of illicit Traffic in Drugs Act. Cap 95 of R.E. 2002



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effective HIV response.

- The fact that sex work is effectively criminalised¹⁰ under the Tanzanian criminal code, as well as the attitudes and enforcement practices of the police authorities hinders an effective response to HIV.
- Public policy and legislation until very recently has concentrated on a punitive approach to drug use not accompanied by any policies focusing on the health and social welfare and support needs of drug using communities/individuals. This has fuelled a dramatic rise in unsafe injecting drug use, and increased HIV infection amongst people who inject drugs.
- Despite the existence of legislation and regulations to support prevention, care and treatment provision in the prison setting there was evidence in this study of lack of HIV prevention commodities (such as condoms), poor nutritional support for PLHIV who require ARVs, a lack of proper management of those on treatment regimes, and a lack of HIV prevention education.

These findings all evidence how the current legislation, and/or its application, impedes the efforts of all those in Tanzania working to provide an effective response to HIV.

Methodology

The data and information upon which this report is based was obtained/collected through a variety of ways:

- Desk review of legal databases, specialist databases and government archives (physical as well as electronic) including primary and secondary legislation.
- Questionnaires sent to networks of people living with HIV/AIDS, government departments, government officials and NGO's.¹¹
- Consultation with activists and organizations representing key population groups directly affected by the laws and practices.

The work was carried by a lead consultant working alongside 4 research assistants, (all of whom were people living with HIV), two women and two men; two of whom were lawyers.

There are several limitations which must be pointed out:

- The response rate to questionnaires was lower than anticipated and much follow-up work and chasing was necessary to obtain adequate information.
- There was a reluctance from some of those contacted to provide information

¹⁰ Under the legislation the 'involvement' of women (and men) in sex work is criminalised alongside their ability to organise the working conditions that could ensure their safety.

¹¹ The questionnaires were sent to TAWLA, WLAC, LHRC, TLS - (SAJEA), to 10 Magistrates of RM-Kisutu, Kinondoni, Ilala and Temeke, also to two Judges of the High Court of Tanzania, and 12 State Attorneys.



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without being recompensed for their involvement

- Many of those interviewed did not want to reveal their HIV status or membership of a key population and only cooperated with us on the basis of anonymity.
- The necessity to obtain permission from prison headquarters for conducting interviews (though permitted) in prisons was a limiting factor, as was the necessity of interviews with prisoners needing to be conducted with a 'soldier/prison guard' present even if not necessarily in earshot.

Despite these limitations we believe that this study gives a credible and robust overview of the situation in Tanzania in relation to these issues.

Recommendations

1. That the Government of Tanzania should revise the HIV and AIDS (Prevention and Control) Act, 2008¹² so that:
 - a. The section which makes it mandatory for an individual to disclose their HIV-positive status to sexual partners (Section 21) is repealed
 - b. The section which criminalises HIV transmission (Section 47) is repealed. That section 48 is reviewed, and if still felt to be necessary, that detailed guidance is produced as to what constitutes 'provisions relating to safe procedures and practices'. Additionally as previously noted by the Legal and Human Rights Centre Tanzania¹³ the law has failed to address some critical issues to ensure that individuals are able to seek redress.
 - c. That other sections of the Act should be scrutinised by the Government working in partnership with other stakeholders to ensure that it is aligned with the EALA (East African Legislative Assembly) best practice as contained in the East African Community HIV and AIDS Prevention and Management Bill (2012) and the Notes to the Bill which was passed on 23 April 2012.
2. NACOPHA and other stakeholders should advocate with policy makers, government and others to ensure that the Government makes progress toward the recommendations laid out in 1 above
3. That the Government of Tanzania should consider how it can resource or support mechanisms and procedures whereby citizens have access to redress systems and support to exercise their rights as enshrined in the Act; this should be aligned with introducing domestic legislation and guidance to ensure due process of law so that the merits of complaints can be independently, impartially and speedily assessed.

¹² Accessible at http://www.ilo.org/aids/legislation/WCMS_125594/lang--en/index.htm

¹³ More information about their work can be found at <http://www.humanrights.or.tz/>



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4. That the Government of Tanzania, through the relevant government departments should put in place guidance and policy to ensure that the application and interpretation of section 176 of the legal code does not adversely affect and impact upon the ability of civil society and others to conduct effective outreach to key populations in relation to HIV prevention and the provision of care, treatment and support.
5. NACOPHA should, with other civil society organisations and individuals, (including those from key population groups) to create partnerships which mobilise to create the conditions for a reasoned dialogue to occur (both publically and amongst law and policy makers) on the issue of same sex relationships, commercial sex work, and drug use to ensure a comprehensive Tanzanian HIV response.
6. All actors in the response to HIV in Tanzania need to call for significant expansion in the provision and geographic spread of HIV prevention programmes and for increased support for voluntary counselling and testing. Most importantly all should be advocating for a rapid increase in service provision for the key populations mentioned in this report. The advocacy should include:
7. Ensuring that prisoners are receiving the protection afforded them under the legislation, and as laid down The Prison Standing Orders, by being :
 - a. Able to access condoms and harm reduction services whilst in prison.
 - b. Have efficient and effective management of their HIV therapy.
 - c. Being able to access voluntary, confidential testing.



Research and Findings in detail

This section details each of the laws reviewed, outlining the main provisions as they impact upon people living with HIV (and other key populations), assesses their adequacy as effective tools in the response to HIV as well as the extent to which they align with ‘best practice’ internationally. As previously noted the legislation reviewed as part of this study included:

1. The HIV and AIDS (Prevention and Control) Act, 2008¹⁴
2. The Penal Codes that relate to same sex relationships¹⁵
3. The Penal Codes that relate to commercial Sex Work
4. The Drugs and Prevention of Illicit Traffic in Drugs Act. Cap 95 of R.E. 2002
5. The Prison Standing Orders (PSO) 2003¹⁶

The HIV and AIDS (Prevention and Control) Act, 2008

The Act enshrines in Law the provision of HIV prevention, sends a strong message that the Tanzanian Government is committed to providing care and treatment for people with HIV, outlaws discriminatory practice towards People living with HIV in several spheres, as well as stipulating that future legislation, subsidiary policies or regulations should be in alignment with the principles of non-discrimination contained in this primary legislation. However there are also others sections of the Act which are problematic, such as a duty to disclose status and the criminalisation of transmission.

Protective elements of the law

Some notable inclusions in the legislation which could be regarded as protective towards the rights of people living with HIV and supportive of an effective response to HIV are:

- Government, political, religious, and traditional leaders and employers in the private sector shall advocate against stigma and discrimination of people living with HIV and AIDS, section 4 (2) (b).
- A person shall not be compelled to undergo HIV testing, section 15(3)

¹⁴ Accessible at http://www.ilo.org/aids/legislation/WCMS_125594/lang-en/index.htm

¹⁵ The Law of Marriage Act Cap 29 R.E. 2002 was also considered as part of this discussion

¹⁶ All of these Acts can also be accessed at <http://www.parliament.go.tz/index.php/documents/acts/all/all/> and/or as noted when discussed. Multiple referencing has been used as some of the websites accessed are sporadically unavailable.



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- The Ministry of Health shall, where resources allow, take necessary steps to ensure the availability of antiretroviral and other healthcare services and medicines, section 24(2).
- A person shall not formulate a policy, enact a law or act in a manner that discriminates directly, or by its implication, against persons living with HIV and AIDS, orphans, or their family, section 28.
- A person shall not stigmatize or discriminate in any manner any other person on the grounds of such person's actual, perceived, or suspected HIV and AIDS status, section 31.
- Any person living with HIV and AIDS shall, using available resources, have a right to the highest attainable standard of physical and mental health, section 33 (1) a.
- 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 healthcare, and livelihood services, section 34.1.

However despite the generally protective nature of these sections the Legal and Human Rights Centre Tanzania¹⁷ has suggested that that the law has failed to address some critical issues to ensure that individuals are able to seek redress under these laws, including:

- There is no provision for state support for legal aid systems specializing in HIV casework possibly involving NGOs, legal aid centres.¹⁸
- There is no state support or inducements (e.g. tax reduction) to private sector law firms to provide free or pro bono services to people living with HIV in areas such as anti-discrimination and disability, health-care rights (informed consent and confidentiality), property (wills, inheritance) and employment law¹⁹.

The difficulty of obtaining access to justice are not unique to people living with HIV, nor are they unique to Tanzania in the region.²⁰ However a start needs to be made is the law is to truly be protective toward people living with HIV. Additionally it was identified that a further difficulty arose because of:

- The absence of domestic legislation or procedures that provides for prompt and effective remedies in cases whereby a person living with HIV is denied or not provided access to treatment, care and support and (*insufficient mechanisms*) to

¹⁷ More information about their work can be found at <http://www.humanrights.or.tz/>

¹⁸ Legal and Human Rights Centre Tanzania Human Rights Reports 2009, at pg. 111

¹⁹ LHRC report, op cit, at pg 111

²⁰ For a detailed discussion of these issues see Access to Justice and Legal Aid in East Africa (2011) accessible at http://www.humanrights.dk/files/images/Publikationer/Legal_Aid_East_Africa_Dec_2011_DIHR_Study_Final.pdf

ensure due process of law so that the merits of such complaints could be independently and impartially assessed.²¹

Punitive elements in the law

Criminalisation of HIV Transmission and Mandatory Disclosure of HIV-positive status:

There are two sections of The HIV and AIDS (Prevention and Control) Act, 2008 which speak directly to the issue of criminalisation of HIV transmission (sections 47 and 48) and one which makes it mandatory for an individual to disclose their HIV-positive status (section 21).

Section 47 applies to individuals living with HIV:

- “any person who intentionally transmits HIV to another person commits an offence, and on conviction shall be liable to imprisonment for a term of five years and not exceeding ten years.”

It is the contention of the authors of this report that section 47 constitutes an overly broad and inappropriate application/presence of criminal law to HIV transmission²², and as such creates a real risk of increasing stigma and discrimination against people living with HIV, especially women, and therefore impedes the efforts of successfully fighting the epidemic²³.

Indeed section 47 even at the time of drafting and enactment (2007/8) was not in accordance with some international guidance²⁴, or other model laws being introduced in the region which had considered but rejected the inclusion of criminal statutes in relation to intentional HIV transmission²⁵. In broad terms section 47 does follow a recommendation contained in the ‘N’Djamena legislation on HIV (2004)’ which has been regarded as having many problematic elements^{26,27}.

Within Tanzania there has been no prosecution reported under section 47, though one

²¹ LHRC report, op cit, at pg 112.

²² As defined in the UNAIDS/UNDP Policy Brief: Criminalization of HIV Transmission. Geneva, 2008 accessible at http://www.unaids.org/en/media/unaids/contentassets/dataimport/pub/basedocument/2008/20080731_jc1513_policy_criminalization_en.pdf

²³ <http://www.gnpplus.net/en/resources/human-rights-and-stigma/item/21-ten-reasons-to-oppose-criminalisation>

²⁴ The 2002 UNAIDS Policy option paper and international guideline on HIV /AIDS and Human Rights recommended that criminal or public health legislation should not include specific offences against deliberate and intentional transmission of HIV but should apply general criminal offences.

²⁵ For example the Model Law http://www.justice.gov.za/vg/hiv/docs/2008_Model-Law-on-HIV-in-Southern-Africa.pdf

²⁶ For a full discussion of issues raised at the time see the commentary by the Canadian AIDS Law Centre and UNAIDS respectively at <http://www.aidslaw.ca/publications/interfaces/downloadFile.php?ref=1530> as well as http://data.unaids.org/pub/Manual/2008/20080912alternativelanguage_ndajema_legislation_en.pdf

²⁷ Accessible via <http://www.aidsmap.com/page/1442068/>



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attempted prosecution was uncovered as part of this research²⁸. The absence of their being any regulation in force to make the law practicable or give guidance on the application of the law evidences the problematic nature of this section. Some difficulties in developing such guidance include:

The burden of proof:

Proving who infected who, and when, is a serious challenge. Even the most advanced (and expensive) scientific testing available (*Phylogenetic testing*) only indicates similarities in the viruses between alleged sexual partners; it does not prove beyond a reasonable doubt the source of the virus²⁹.

Establishing 'intention':

With cases of sexual transmission, proving intention can be virtually impossible as the very nature of sexual HIV transmission means there are no witnesses: what happens in the bedroom is essentially private³⁰.

Within Tanzania amongst the survey respondent such technical evidence and its limitations are not well understood, neither was this section of the Act itself. This includes even Magistrates, some advocates, police and most of the people authorized to enforce it as per section 51 of the Act; most of those interviewed did not know that the law exists. Some who knew of its existence were not aware of its contents³¹. As a result of these factors, there is considerable potential for wrongful conviction.

Other countries have not felt the need to introduce HIV specific laws relating to sexual transmission. It is the view of UNAIDS that there is no evidence to suggest that criminalising HIV transmission is an effective means to prevent the further transmission of the virus or achieve criminal justice³² and have also held that *"HIV-specific criminal offences for non-malicious HIV transmission are inconsistent with state obligations to respect, protect and fulfil the human right to the highest attainable standard of health"*³³.

²⁸ From information provided by Joseph R. Wawa, Program Coordinator of SAJEA program, TANZANIA NATIONAL WORKING GROUP within the Tanganyika Law Society there was one attempt to prosecute 'intentional' transmission of HIV/AIDS in Moshi-Kilimanjaro but the Court could not proceed because it lacked guidance of the Regulation to further direct the Court on what really amounts to intentional transmission. Thus, the Magistrate advised the parties to settle the matter out of Court

²⁹ <http://www.nat.org.uk/Media%20library/Files/PDF%20Documents/HIV-Forensics.pdf>

³⁰ <http://www.avert.org/criminal-transmission.htm>

³¹ SAJEA, Ibid.

³² UNAIDS (2008), *'Policy Brief: Criminalization of HIV Transmission'*

³³ UN Rapporteur on the Right to Health, 2010 as quoted the 2010 Global Criminalisation Scan Report (GNP+) <http://www.gnpplus.net/programmes/human-rights/global-criminalisation-scan/1648-2010-global-criminalisation-scan-report>



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Section 48 applies to institutions and individuals:

“Any person who intentionally breaches any provisions relating to safe procedures and practices leading to spreading of HIV commits an offence and on conviction shall be liable:

- a) In case of an individual, not less than two hundred thousand shillings and not exceeding five hundred thousand shillings or imprisonment to a term of three months and not exceeding six months.
- b) In case of a health care facility, to a fine of not less than three million shillings and not exceeding five million shillings.

As with Section 47 there has been no guidance produced which defines or clarifies what may not constitute ‘intent’ nor what constitutes ‘provisions relating to safe procedures and practices’. Additionally as previously noted by the Legal and Human Rights Centre Tanzania³⁴ the law has failed to address some critical issues to ensure that individuals are able to seek redress.

Section 21 requires Mandatory Disclosure of HIV Status

Section 21 of the Act makes it mandatory for PLHIV to disclose his/her status to their spouse/ sexual partner(s) upon knowing their HIV-positive diagnosis³⁵.

There is an increasing body of evidence which shows that such mandatory disclosure impacts adversely upon individual willingness to come forward voluntarily for testing³⁶. It could also be held to be punitive and discriminatory given the adverse effect it has upon women, who are more likely to, and have greater need of accessing health care services because of sexual and reproductive health needs. Additionally women are often blamed for bringing HIV into the home and experience violence as a result of disclosing their HIV status³⁷.

Conclusion:

Apart from the difficulties of there being no guidance in place for either section 47 and 48, and the problematic nature of establishing ‘intent’ it is suggested by the authors this report that:

Section 47, especially when viewed alongside Section 21, is not in accordance with the constitution of the republic in that it places a greater burden upon those who know they are HIV-positive than others, and as such contravenes the principle of ‘equality’ before the law³⁸.

³⁴ More information about their work can be found at <http://www.humanrights.or.tz/>

³⁵ Accessible at http://www.ilo.org/aids/legislation/WCMS_125594/lang-en/index.htm

³⁶ <http://www.aidsmap.com/The-negative-impact-on-public-health/page/1444157/>

³⁷ See discussion at <http://www.who.int/bulletin/volumes/82/4/299.pdf>

³⁸ As per sections 12-14 accessible at <http://www.judiciary.go.tz/downloads/constitution.pdf>



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Section 47 is not in alignment with the principles of Positive Health, Dignity and Prevention that the Government of Tanzania incorporated as a guiding principle to be followed as part of the National AIDS control programme in 2010³⁹ and the National AIDS Control Programme has incorporated into the National Guidelines for the Management of HIV and AIDS (2012)⁴⁰

Section 47 is not in accordance with the obligations of the republic to ensure its laws are aligned with those of the East African Legislative Assembly (EALA), which has passed a HIV and AIDS Prevention and Management Bill⁴¹ rejecting HIV specific legislation criminalising 'wilful' transmission.

Section 48 (in common with section 47) suffers from their being no guidance produced which defines or clarifies what may not constitute 'intent' nor what constitutes 'provisions relating to safe procedures and practices'. Additionally as previously noted by the Legal and Human Rights Centre Tanzania⁴² the law has failed to address some critical issues to ensure that individuals are able to seek redress.

The requirement of Section 21 making it mandatory to disclose HIV-positive status to sexual partners is also overly broad; apart from the difficulties of proving /disproving whether such disclosure has taken place, it disproportionately affecting women, it may also be held as violation of the privacy and confidentiality rights of people living with HIV⁴³.

Laws that Criminalise Same Sex Relationships

Throughout Tanzania, sex acts between men are illegal. Sex acts between women are not mentioned specifically in mainland Tanzanian law though are in the region of Zanzibar⁴⁴. As well as legislation concerning same sex sexual acts (and the 'procuring' of sexual acts), legislation covering 'acts against nature' has been seen to apply to same sex acts. Additionally there is legislation which denies same sex 'partnerships'⁴⁵.

Legislation relating to sexual relationships⁴⁶

Mainland Tanzania

The Tanzania Penal Code of 1945 (as revised by the Sexual Offences Special Provisions Act,

³⁹ http://www.jica.go.jp/project/tanzania/001/materials/pdf/common_03_01.pdf

⁴⁰ <http://www.nacp.go.tz/documents/nationalguideline42012.pdf>

⁴¹ See <http://www.healthmap.org/news/east-african-bill-rejects-hiv-criminalization-clause>

⁴² More information about their work can be found at <http://www.humanrights.or.tz/>

⁴³ Art. 17(1) of the ICCPR (the International Covenant on Civil and Political Rights) states, "No one shall be subjected to arbitrary or unlawful interference with his privacy

⁴⁴ This report and research has primarily concerned itself with Mainland Tanzania – the legislation regarding Zanzibar is given to provide completeness.

⁴⁵ From the reading of the legislation there is no necessity for sex to take place for an offence to take place.

⁴⁶ The full legislation can be found as referenced elsewhere. We have confined these abstracts to those relating to those where both parties are over 18 years



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1998) and codified in The Penal Code cap 16 R.E. 2002⁴⁷ criminalizes same sex activities. It provides as follows:

Section 138A. Acts of gross indecency⁴⁸ between persons.

- Any person who, in public or private commits, or is a party to the commission of, or procures or attempts to procure the commission by any person of, any act of gross indecency with another person, is guilty of an offence and liable on conviction to imprisonment for a term not less than one year and not exceeding five years or to a fine not less than one hundred thousand and not exceeding three hundred thousand shillings

Section 154. Unnatural offences.

(1) Any person who-

(a) has carnal knowledge of any person against the order of nature; or

(c) permits a male person to have carnal knowledge of him or her against the order of nature, commits an offence, and is liable to imprisonment for life and in any case to imprisonment for a term of not less than thirty years.

Section 155. Attempt to commit unnatural offences.

Any person who attempts to commit any of the offences specified under section 154 commits an offence and shall on conviction be sentenced to imprisonment for a term not less than twenty years.

Section 157. Indecent practices between males.

Any male person who, in public or private-

(a) commits any act of gross indecency with another male, or

(b) procures another male person to commit any act of gross indecency with him, or

(c) attempts to procure a male to commit an indecent act to him,

is guilty of an offence and may be sentenced to five years of imprisonment.

Zanzibar

The Zanzibar Penal Code of 1934, as amended in 2004^{49 50}, provides as follows:

Section 150. Any person who:

(a) has carnal knowledge of any person against the order of nature; or

⁴⁷ See http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/TZA_penal_code.pdf

⁴⁸ According to Part I(3) of the Sexual Offences Special Provisions Act, 1998: "gross indecency" in Section 138A "means any sexual act that is more than ordinary but falls short of actual intercourse and may include masturbation and indecent physical contact or indecent behaviour without any physical contact".

⁴⁹ <http://identitykenya.com/index.php/from-africa/1007-zanzibar-s-gay-msm-community-under-watch-over-increase-in-hiv>

⁵⁰ http://en.wikipedia.org/wiki/LGBT_rights_in_Tanzania



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(c) permits a male person to have carnal knowledge of him or her against the order of nature;
is guilty of a felony, and is liable to imprisonment for a term not exceeding fourteen years.

Section 151.

Any person who attempts to commit any of the offences specified in section 150 is guilty of a felony, and is liable to imprisonment for a term not exceeding seven years.

Section 153.

Any woman who commits an act of lesbianism with another woman whether taking an active or passive role shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred thousand shillings.

Section 154.

Any person who, in public or private commits, or is a party to the commission of, or procures or attempts to procure the commission by any person of, any act of gross indecency with another person, is guilty of an offence and liable on conviction to imprisonment for a term not exceeding five years or to a fine not exceeding two hundred thousand shillings; "gross indecency" means "any sexual act that falls short of actual intercourse and may include masturbation and physical contact or indecent behaviour without any physical contact."

Legislation relating to same sex 'partnerships'

Section 158 of the Criminal Code⁵¹:

Any person who:

- (a) enter[s] or arrange[s] a union whether amounting to marriage or not of the person of the same sex;
 - (b) celebrate[s] a union with another person of the same sex whether amounting to marriage or not; [or]
 - (c) lives as husband and wife [with] another person of the same sex;
- shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding seven years.

These laws have been regarded as draconian in nature by many international commentators and bodies, and held as contrary to international treaties that Tanzania has ratified. However as recently as 20011 the Tanzanian Prime Minister Mizengo Pinda asserted that

⁵¹ We believe that this legislation applies to both mainland Tanzania and Zanzibar



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'Homosexuality is not part of our culture and we will never legalise it'⁵². In doing so his, and other politicians with similar views, are reflecting received public opinion. According to the 2007 Pew Global Attitudes Project⁵³, 95% of Tanzanian residents believe that homosexuality is a way of life that society should not accept.

Application of the law and effects upon the LGBT community and the HIV response:

According to a report of 2010 by the United States Government (State Department) 'Since the burden of proof in such cases is significant, the law (relating to sexual offences) has rarely been applied, and there were no reports that anyone was punished under the law during the year (2010)'⁵⁴. However in-country sources have anecdotal evidence of application of these laws (especially those relating to 'carnal knowledge) on a regular basis, and even the even State Department report acknowledges that 'in the past individuals suspected of being gay/ lesbian have instead been charged with loitering'⁵⁵, though the numbers are not known.

Arrests under the offence of 'loitering' under section 176 of the legal code (a 'catch-all' clause allowing the arrest of 'Idle and disorderly persons which is also used extensively against *alleged* sex workers'⁵⁶) has had severe repercussions for individuals wishing to organise around LGBT issues, including those who wish to do HIV prevention and awareness work amongst MSM in Tanzania. Some individuals who have tried to raise the profile of LGBT rights have suffered abuses of their human rights⁵⁷, or indeed been murdered because of their sexuality⁵⁸.

This lack of any 'enabling environment' has had repercussions for the HIV response:

We know that effective community outreach It is not even possible for the Government or the civil society at large to support them, therefore, this puts them at greater vulnerability to being exposed to HIV because they cannot be reached with prevention and other HIV services. Some of the NGO's in Tanzania have been reported to support same-sex relationships in the context of Human Rights,⁵⁹ yet there is no reported prosecution for this offence. Many cases prosecuted are in relation to carnal knowledge against the order of nature in rape cases.

⁵² A discussion of these arguments – and the position of the Tanzanian Government can be accessed at http://en.wikipedia.org/wiki/LGBT_rights_in_Tanzania

⁵³ <http://pewglobal.org/files/pdf/258.pdf> at pages 35, 84, and 117.

⁵⁴ <http://www.state.gov/documents/organization/186460.pdf> at page 36

⁵⁵ ib⁴³

⁵⁶ Reported at <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/993.html>

⁵⁷ http://www.lgbt-education.info/en/news/local_news/news?id=554

⁵⁸ <http://www.msmsgf.org/index.cfm/id/11/aid/6614>

⁵⁹ The TGNP is an NGO that has started its move to support same sex relationship in Tanzania.



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The reluctance of those who identify as MSM to come forward to testing for HIV has been documented in a small study by AmFar, which in 2012 reported that Fifteen percent of 271 men interviewed reported discrimination as a barrier in accessing HIV testing services⁶⁰.

Commercial Sex Work between adults

Commercial sex work is criminalised under the Penal Code of Tanzania. The relevant sections (s 145-148⁶¹) cover:

- Males living on earnings of prostitution or persistently soliciting (section 145)
- Women living on the earnings of (*another woman's*) prostitution or being involved in acts which are /benefiting/aiding abetting prostitution (section 146)
- Powers of search and arrest to investigate premises containing people involved in prostitution, or being used for prostitution, or allowing a premises to be used for prostitution (sections 147 and 148).

However most people who might (allegedly) be sex workers are arrested for under section 176 of the legal code (a 'catch-all' clause allowing the arrest of 'Idle and disorderly persons') and not on specific prostitution charges⁶² under section 145-148 which would require some evidentiary basis⁶³.

Application of the law and effects upon Sex Workers and the HIV response:

This arbitrary arrest and detention allows for the legitimisation of exploitation of Commercial Sex Workers; in a 2009 study it was consistently reported that CSWs are not tolerated by both the civil society and Tanzanian authorities, and this persistent belief that sex work is a criminal activity and the way that the law was enforced means CSWs risked arrest and continuous harassment from police and other legal authorities and were thus very reluctant to report rape and other forms of violence⁶⁴.

As also noted by the Global Coalition of Women and AIDS (a UN initiative) such criminalisation of sex work contributes to an environment in which, violence against sex workers is tolerated, leaving them less likely to be protected from it⁶⁵, and goes on to show evidence that that such violence, and lack of control over one's life means that sex workers

⁶⁰ http://www.amfar.org/articles/in_the_lab/2012/increasing_hiv_testing_among_msm_in_africa/

⁶¹ CHAPTER 16 of R.E. 2002 which can be accessed at

http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/TZA_penal_code.pdf

⁶² Once again (similar to the enforcement of laws relating to sex between men) a high burden of proof is required for the offences, offences of loitering are more often used such as reported at <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/993.html>

⁶³ Due to this law being used it is not possible to get any idea of the numbers of arrests

⁶⁴ <http://www.benthamsience.com/open/totmj/articles/V002/27TOTMJ.pdf> at pages 35-36.

⁶⁵ <http://www.who.int/gender/documents/sexworkers.pdf>



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may give lower priority to their health needs, over more immediate concerns for safety and survival.

The HIV Prevention Strategy for Mainland Tanzania (and two year action plan 2009-2011)⁶⁶ also acknowledged that sex workers are often stigmatised by laws that prohibit the ‘practice’, or by social attitudes, and as a result Commercial sex workers do not receive services from health facilities, law enforcement, or leaders in their communities. Some sex workers are further stigmatised by their associations with IDUs and MSM⁶⁷ and recommends a minimum set of services that should be in place. These minimum services include

- “Risk reduction counselling, condom distribution, highly targeted media, HCT services, STI screening and treatment, and referrals to HIV prevention, care and treatment services. HIV positive individuals engaging in sex work should have access to non-stigmatising risk reduction services, and well as prevention, care, and treatment”⁶⁸ This would be in keeping with the UNAIDS recommendations which recommend also that by “improving working conditions, a culture of safer sex can be promoted in the industry and responsible behaviour by workers, clients and management can be protected against HIV and AIDS’⁶⁹

Conclusion:

The criminalisation of sex work and the laws that are operated against those adults engaged in CSW do much to impede the ability of sex workers to access services, or services to be provided to them. The existence of sections 145-148 do not recognise that commercial sex work needs to be recognised as a work place issue, as recommended by the International Labour organisation, so that proper protection can be afforded to workers engaged in commercial sex work.⁷⁰ The legislation that is most usually used section 176 of the legal code (a ‘catch-all’ clause allowing the arrest of ‘Idle and disorderly persons’) is one that is open to abuse by police officers. It is often used to discriminate against, harass and abuse sex workers.

Criminalisation of Drug Use in Tanzania

Drug use in Tanzania is regulated under the drugs and *Prevention of illicit Traffic in Drugs Act. Cap 95 of R.E. 2002*. Under section 16 and 17 of the Act⁷¹:

⁶⁶ www.tz.undp.org/docs/HIV_Prevention_Strategy.doc

⁶⁷ www.tz.undp.org/docs/HIV_Prevention_Strategy.doc

⁶⁸ As⁵⁹

⁶⁹ UNAIDS (1999) Handbook for Legislators on HIV/AIDS, Law and Human Rights Action to Combat HIV/AIDS in View of its Devastating Human, Economic and Social Impact (at pg. 56)

⁷⁰ <http://www.tuc.org.uk/international/tuc-21266-f0.cfm>

⁷¹ The two sections are very lengthy. We have provided a brief synopsis, the full text can be accessed at www.lrc.tz/?wpfb_dl=165



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Cap 16. - (1)

- a. Any person who has in possession or does any act or omits to do any act or thing in respect of narcotic drugs or any preparation containing any manufactured drugs commits an offence and upon conviction is liable to a fine of ten million shillings or three times the market value of the narcotic drugs... or whichever is greater,. or to an imprisonment for life or to both the fine and imprisonment;
- b. traffic in any narcotic drug/ psychotropic substance or any substance represented to be a narcotic drug/psychotropic substance commits an offence and upon conviction is liable to:
 - (i) ... a fine of ten million shillings or three times the market value of the narcotic drug/ psychotropic substance, whichever is the greater, and in addition to imprisonment for life but shall not in every case be less than twenty years;
 - (ii) in respect of any other substances, other than a narcotic drug or psychotropic substance which he represents or holds to be narcotic drugs/psychotropic substances to a fine of not less than one million shillings and in addition to imprisonment for life but shall not in every case be less than twenty years.

(2) Any person who smokes, inhales, sniffs or otherwise uses any narcotic drug/psychotropic substances; without lawful, reasonable excuse, is found in any ... place for purposes of smoking, inhaling, sniffing or otherwise using any narcotic drug/ psychotropic substances; or is owner/ occupier/ concerned in the management of any place and permits the place to be used for the purposes connected (preparation. sale, smoking, etc) or is in possession of any 'drug related paraphernalia' commits an offence is liable to a fine of one million shillings or imprisonment for a term of ten years or to both the fine and imprisonment.

Cap 17:

subsection (1) limits some of the penalties of Cap 16 if it can be shown that possession of a 'small quantity' was for personal use ... to a fine of three hundred thousand shillings, or to imprisonment for a term of ten years or to both that fine and imprisonment; if for certain narcotic drugs psychotropic substances to a fine of two hundred thousand shillings, or to imprisonment for a term of seven years or to both that fine and imprisonment.

The scale of drug use and injecting drug use in Tanzania is hard to estimate, though it is seen as increasing:

- The Tanzania International Narcotics Control Strategy Report (2010) reported “while



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domestic use of cannabis has plateaued, heroin and cocaine use continues to increase”⁷².

- The number of users seeking treatment at drug rehabilitation centres in the country increased to 200,000 in 2011⁷³.
- The Tanzanian Drug Control Commission (DCC) Report (2011) states that the actual number of drug ‘addicts’ (though not specifying their definition of ‘addiction’) in ‘general is estimated to be at between 150,000 and 500,000 nationwide’, though one study estimates that there are around 25,000 injecting drug users (IDUs) in Tanzania, half of whom may be infected with HIV⁷⁴.
- Statistics issued by Mirembe Hospital in Dodoma region (that were incorporated in the DCC Report) show that the number of ‘young people’ who use drugs and attend clinics at the hospital increased from 290 in 2000 to 569 in 2005, equal to a 96.2% increase and that this trend is increasing.
- Recent studies also conclude that whereas injecting drug use had been previously concentrated in areas which were connected with the coastal strips this had changed and the availability of ‘injectables’ was more widespread across the country.

Application of the law, effects upon people who inject drugs, and the HIV response:

Application of the law:

- The total numbers of people incarcerated for ‘drug’ crimes in Tanzania is difficult to access. According to a report in AllAfrica.com⁷⁵ ‘229 prisoners serve sentences (for drug offences) in various prisons in the country up to December 2011’⁷⁶.
- Far more prevalent has been the use of the ‘fine’ system as allowed for under the legislation. However maybe due to the increase of injecting drug use this approach has been questioned as a matter of public policy by many politicians as being ‘inappropriately’ applied to ‘suppliers/importers’ and stricter guidance being needed to ensure custodial sentences are applied as part of the ‘war on drugs’⁷⁷

Effects on people who inject drugs:

- The elements of what was an inadequate, and deleterious, response fueled by the ‘War on Drugs’ approach pursued by the Government and Policing agencies not accompanied by any policies focusing on the needs of drug using communities/individuals was evident

⁷² <http://www.cablegatesearch.net/cable.php?id=09DARESSALAAM747>

⁷³ <http://allafrica.com/stories/201212310239.html> 29 december 2012

⁷⁴ <http://csis.org/publication/hiv-prevention-among-injection-drug-users>

⁷⁵ <http://allafrica.com/stories/201212310239.html> Tanzania edition accessed 29th December 2012

⁷⁶ The same report concluded that approximately 120 inmates interviewed confirmed that they use drugs in prisons

⁷⁷ <http://allafrica.com/stories/201301050125.html> regarding Zanzibar.



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as long ago as 2005⁷⁸.

- The increase of injecting drug use without programmes being in place to educate on safer injecting practice or provide sterile needles and syringes because of the ‘War on Drugs’ mentality was a significant factor in ‘flash-blood’ methods of injecting becoming common; this is a very efficient method of transmission of HIV as well as other blood borne diseases.

The HIV response

Developments have included:

- HIV prevention, treatment and care for people who inject drugs in Tanzania has not traditionally been a focus of government or donor attention because of this concentration (not unique to Tanzania) on the ‘war on drugs’, and a perception that the HIV epidemic is ‘generalised’ to the exclusion of key population needs
- The response for people who use drugs has come very late, and is, in most cases, only in a ‘pilot’ stage of implementation. Welcome developments have included:
- In 2011, with assistance from PEPFAR, Tanzania became the first country in sub-Saharan Africa to implement a harm reduction program for people who inject drugs.⁷⁹ This has included medication assisted treatment (MAT) and needle and syringe programs (NSP) both of which are internationally recognized as effective and essential components of a comprehensive HIV prevention strategy for people who use, and especially, inject drugs. Tanzania has bravely and remarkably paved the way in adopting what are, for the region at least, ground-breaking HIV prevention strategies in this regard.
- Medication assisted treatment has also been recognized as contributing to a reduction of HIV incidence among people who use opiates (in Tanzania, principally heroin) and established as an effective treatment for opioid dependence. This treatment utilizes individualized dosing of medication to people dependent on opiates.⁸⁰
- Some NGOs have started providing needle and syringe programs, albeit on a small scale that in no way meets the demand.⁸¹

⁷⁸<http://ir.muhas.ac.tz:8080/jspui/bitstream/123456789/421/1/1-s2.0-S095539590700093X-main.pdf>

This is where users share needles and syringes full of blood that have residual drug traces.

⁷⁹Embassy of the United States Tanzania (2011, February) ‘Medication assisted treatment program launches at Muhimbili national hospital’ accessed at http://tanzania.usembassy.gov/pr_02102011a.html retrieved on 23rd May 2012

⁸⁰The Medication assisted treatment program in Tanzania began with methadone, which stops opioid withdrawal while simultaneously reducing drug cravings. It helps people achieve stability and return to healthy and productive lives. This therapy reduces risky behaviours related to injection drug use and helps prevent HIV transmission while improving adherence to anti-retroviral treatment (ART).

⁸¹ *Médecins Du Monde* provide programs in both the Temeke and Kimara districts of Dar es Salaam.



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Conclusion

- HIV prevention and treatment for people who inject drugs in Tanzania has only recently been a focus of government or donor attention because of a concentration (not unique to Tanzania) on the 'war on drugs' and its attendant punitive approaches.
- Treating drug use as a criminal act without also viewing it as a public health concern endangers the lives of people who use drugs and their sexual partners. The best way to improve the health of people who use drugs is to educate them on the health risks through peer based outreach, appropriate information education materials and the provision of appropriate, evidence based, human rights compliant programs. When you criminalize, people do not stop using drugs, but are forced further underground, resort to increasingly risky injecting practices, and become reluctant to access what services are available.
- Strict laws on the criminalisation of drug use and people who use drugs are fuelling the transmission of HIV and other serious harms associated with the criminal market and should be reviewed.

HIV in prisons

The Prison Standing Orders (PSO) 2003⁸² set out guidelines for dealing with HIV/AIDS in prisons. The guidelines include applying all national guidelines on HIV/AIDS to prisons where facilities allow and provide for counselling before testing occurs. The Tanzanian government in doing so, is following accepted international law and treaty which recognises that 'prisoners should retain all rights which are not expressly taken away by the fact of their detention'⁸³: This declaration in turn echoes 'except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and [...]United Nations covenants'⁸⁴.

The situation regarding HIV in Tanzanian prisons

About 9.2% of inmates in Tanzania's prisons are HIV-positive, according to the 2008 Human Rights Report compiled by the Legal and Human Rights centre⁸⁵ Being closed environments, where all aspects of an individuals activities are controlled and regulated by others, prisoners have little opportunity to have agency (control) over the choices they make, or

⁸² For reasons of space these have not been repeated here, especially as the essential elements of are those already contained in the 2008 AIDS Control Act which the earlier PSO legislation is seen as needing to be aligned with.

⁸³ Kampala Declaration on Prison Conditions in Africa (1996) which Tanzania is a signatory to and can be accessed at <http://www.penalreform.org/publications/kampala-declaration-prison-conditions-africa>

⁸⁴ Principle 5 of the United Nations Basic Principles for the Treatment of Prisoners (1990)

⁸⁵ http://www.humanrights.or.tz/wp-content/uploads/2010/10/Tanzania_Human_Rights_Report_2008.pdf



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'freedom' to access (commodities, information, advice) to support their health needs. This is why the state and the prison authorities have a legal duty of care to put these things in place. This is recognised in the 2008 Act.

That this is not happening in Tanzanian prisons was borne out by this research. The research team spoke to prisoners and guards. Below are some excerpts from these interviews.

Lack of access to properly managed HIV therapy:

From an inmate at Loliondo Prison

...I am HIV positive, I was imprisoned and served my sentence in Arusha prison, where I used ARVs and attended a clinic at Mount Meru Hospital. However, I was transferred to Loliondo Prison a month ago ... The ARVs that I have been using were finished and I am yet to receive any. I have neither been sent to the hospital to check for my CD4 count, nor sent to get ARVs. Here I am subjected to hard labour with little consideration for my health condition. It is terrible that a person who is HIV+ is subjected to manual labour

Lack of commodities to prevent onward transmission of HIV was reported by both staff and inmates. Prison officials stated that the transmission of HIV/AIDS in prisons is the result of both unsafe sexual contact⁸⁶ between prisoners and unsafe medical practices. Prisoners do not receive necessary HIV prevention campaigns or other necessary HIV/AIDS education. Inmates also do not receive adequate protection from exposure. Prison officials do not provide condoms to inmates, on the ground that it may condone sexual acts between men.

A male Prisoner at Segerea prison reported:

"Humu jela kuna mambo ya ajabu ajabu sana, kuna vitendo vya kuoana yaani ushoga, ila hawa jamaa (Mabwanajela) hawataki kukubali ukweli huo wakati wanajua, vitendo hivi vinafanyika bila hata kinga, wanaume wanaoana wenyewe kwa wenyewe". Mfungwa anayeishi na Virusi vya Ukimwi- Segerea.

English translation:

"Here in prison, there is strange things happening, there is homosexual behaviour, but these prison officers do not want to disclose when they know the truth, these acts are done without protection, men marry each other."

These are not isolated incidents, they confirm other research.

- Though it is recognised that homosexuality is common in prisons, prisoners are not

⁸⁶ This view is one echoed by eminent Tanzanian church leaders such as Bishop Godfrey Mdimi Mhogolo who talked of the issue of homosexuality in prisons as recently as July 2012 – accessible at <http://www.tzaffairs.org/2008/09/bishops-homosexuality/>



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- given the means to protect themselves⁸⁷
- 'Patients known to have HIV are generally enrolled in an ARV therapy program and sent to a district hospital for care and treatment, but several inmates interviewed complained that when transferred from one prison to the other, they tend to lose HIV treatment.⁸⁸
 - Observation at several prisons in the Morogoro region (Kingolwara, Wami and Morogoro Central) by the TLS fact-finding team revealed that prisons do not have specific guidelines at the prison level or regional level to deal with HIV/AIDS within prison.⁸⁹
 - There is a lack of facilities for testing in the prisons, so inmates do not receive regular testing as required by national guidelines. Also, there is little evidence of any counselling or information on HIV/AIDS prevention provided to prisoners.⁹⁰
 - A prison research report conducted in Tanzania indicates that 73% of all prisons visited were found to have an HIV and AIDS Policy in place while 27% of the prisons did not have an HIV and AIDS Policy⁹¹
 - Prison authorities are often unable to provide nutritious meals for inmates, which means they will be less likely to benefit from the medication and more likely to experience disease progression.⁹²

Conclusion

The inability of the prison service to ensure that HIV/AIDS policies as set down in the Prison Standing Orders are being implemented in a way which is consistent with the duty of care that it has towards those incarcerated (and as called for by the AIDS Control Act of 2008) is fuelling the transmission of HIV in prisons, and having adverse effects upon people living with HIV who are prisoners. This inability is both due to a resource issue, but also a lack of political will.

⁸⁷ 2011 LHRC Human rights report at pg. 194

⁸⁸ Ibid.

⁸⁹ Onesmo Paul Olungurumwa at LHRC Dar es Salaam and from SAJEA officer from TLS.

⁹⁰ This information was obtained from a prisoner at Segerea and a prison guard at Segerea prison.

⁹¹ The 2011 LHRC human rights report. This is accessible at <http://www.humanrights.or.tz/>.

⁹² Prison guard at Segerea prison.

Further Reading/Resources

LGBT Issues

WEZESHA is a national Lesbian, Gay, bisexual and Transgender (LGBT) organization: advancing equality, diversity, education and justice. WEZESHA works for the protection and promotion of LGBT rights in Tanzania at all levels of government to advance full social and legal equality on behalf of the about 2 million lesbian, gay, bisexual, and transgender people in Tanzania

<http://www.wezeshatz.org/>

Drug User organisations

The Tanzanian Network of People who Use Drugs (TaNPUD) was formed to advocate and educate for the health and human rights of people who use drugs in Tanzania. Their vision and ambition is clear: “To live in a country with a loving heart: that is free from the stigma and discrimination of people who use drugs”

The network is hosted by Médecins du Monde, at their drop in centre in Temeke, and is supported by the International Network of People who Use Drugs (INPUD), a global peer-based organisation that seeks to promote the health and defend the rights of people who use drugs.

TaNPUD is contactable at: tanpud@hotmail.com

INPUD is contactable at <http://www.inpud.net/>

Other Useful Documents

For a general overview of the Laws of the Republic of Tanzania:

<http://www.nyulawglobal.org/globalex/Tanzania1.htm>

http://www2.ohchr.org/english/bodies/hrc/docs/ngos/LGBT_Tanzania96.pdf

<http://jama.jamanetwork.com/article.aspx?articleid=182315>

Tanzanian Government Publications on HIV and AIDS

The National Multisectoral HIV Prevention Strategy for Tanzania can be found at:

<http://www.nacp.go.tz/documents/Prevention%20Strategy.pdf>

Tanzania National Guidelines for the Management of HIV and AIDS (2012)

<http://www.nacp.go.tz/documents/nationalguideline42012.pdf>

Key Populations

How national AIDS responses are failing in prevention efforts
for key populations – an analysis of available data

<http://www.whatspreventingprevention.org/wp-content/uploads/2011/06/UNreportskeypopulations.pdf>

HIV Risk and human rights violations among MSM in Africa (2010)

Stefan Baral, MD, MPH Johns Hopkins School of Public Health

http://www.jhsph.edu/research/centers-and-institutes/center-for-public-health-and-human-rights/pdf/Baral_GlobalArcOfJustice_AfricaMSM_Mar09.pdf

Creating an enabling environment for HIV prevention:

The UNFPA site has some useful reading available at:

<http://www.unfpa.org/hiv/strategic/enabling.htm>



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