



# ANTI-HIV/AIDS STIGMA AND DISCRIMINATION LAW IN TANZANIA:

## LESSONS FROM SELECTED DISTRICTS AND MUNICIPALITIES IN MAINLAND TANZANIA

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### Abstract

*HIV/AIDS is still a major life threatening concern in Tanzania. The Government and Non-Governmental Organizations (NGOs) have made recommendable efforts to provide public education on the transmission and prevention of HIV/AIDS that have a bit contributed to the decrease of new infections. However, the efforts by the government and NGOs to suppress the spread of HIV/AIDS are yet to bring the expected results mainly because of the prevalence of stigma and discrimination towards people living with HIV/AIDS (PLWHIVA). Continued HIV/AIDS stigma and discrimination implies that there are weaknesses either in the law and its enforcement or there are other factors beyond the legal purview. This Article examines the anti-HIV/AIDS stigma and discrimination law and its enforcement in Tanzania. The article is an extract of research findings which were obtained through desk review and in-depth interviews conducted in four Councils of Mainland Tanzania. The article illuminates that, notwithstanding the law and the provision of community awareness*

*on HIV transmission, HIV/AIDS treatment, prevention and protective gears; HIV/AIDS stigma and discrimination is still prevalent. Moreover, the light of PLWHIVA not to be stigmatized and discriminated is yet to be realized because of weaknesses in the law and its enforcement, little community awareness of the law and its enforcement and the ways HIV/AIDS is transmitted as well as wrong community perceptions towards PLWHIV/AIDS. Thus, the Article opines for the Government to- formulate viable anti-HIV/AIDS stigma and discrimination policies; enact strict laws against perpetrators of stigma and discrimination; provide more community awareness; and to improve the system of providing health care facilities to the PLWHIVA.*

**Key Words:** *HIV/AIDS, PLWHIVA, stigma and discrimination, law, Tanzania*

### 1.0 Introduction

HIV/AIDS stigma and discrimination refer

to such conducts or conditions that tend to devalue, discredit or socially exclude an individual due to his or her actual, perceived or suspected HIV/AIDS status and/or HIV/AIDS related illness.<sup>1</sup> Like many other African Countries and elsewhere in the world, HIV/AIDS is still a major life threatening concern in Tanzania.<sup>2</sup> The Government of the United Republic of Tanzania (the Government) and Non-Governmental Organizations (NGOs) have made recommendable efforts to provide public education on the transmission and prevention of HIV/AIDS that have a bit contributed to the decrease of new infections. Current researches show that since 1980s, HIV infection has been slowly decreasing in Tanzania. The same studies also show that the efforts by the government and NGOs to suppress the spread of HIV/AIDS are yet to bring the expected results. One of the major reasons ascribed to such failure is the prevalence of stigma and discrimination against people living with HIV/AIDS (PLWHIVA).<sup>3</sup>

Several studies have been conducted on HIV/AIDSs and HIV/AIDSs stigma and discrimination against people living with HIV/AIDS in Tanzania.<sup>4</sup> The most recent study

that the author came across was conducted by the Tanzania Commission for AIDS (TACAIDS), Zanzibar AIDS Commission and the UNDP in 2015.<sup>5</sup> The said study and other previous studies suggest that people living with HIV/AIDS (PLWHIVA) continue to face stigma and discrimination, and that, stigma and discrimination against

PLWHA undermines the efficiency of national efforts to prevent and control the HIV/AIDS epidemic in Tanzania.<sup>6</sup> The persistence of stigma and discrimination against PLWHIVA suggests that there are weaknesses either in the law and its enforcement or there are other (socio-economic) factors beyond the legal purview that defeats the national efforts to counter HIV/AIDS stigma and discrimination.

Therefore, the overall objective of this article is to appraise the anti-HIV/AIDS Stigma and Discrimination law in Tanzania with the view to finding out why stigma and discrimination towards PLWHIVA has remained a notable feature in Tanzania, notwithstanding the law and other national efforts to counter the same. The article is an extract of research findings which were obtained through desk review and in-depth interviews in a qualitative case study on '*People living with HIV/AIDS- social justice to counter stigma and discrimination: development of a social rights approach as an advocacy method project*' (VLIR-UOS project) which was conducted in four Councils in four Regions of Mainland Tanzania.<sup>7</sup> The four selected

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USAIDS, HIV - Related Stigma, Discrimination and Human Rights Violations: Case studies of successful programs, USAIDS, Dar Es Salaam, 2005, pp. 7-10.

2 Maisara, M. & Tumaini N., *Experiences and Impact of Stigma and Discrimination among People on Antiretroviral Therapy in Dar es Salaam: A Qualitative Perspective*. Hindawi Publishing Corporation AIDS Research and Treatment Volume, 2016, p. 11.

3 Telemu K., Honest A., Raphael K., *HIV/AIDS-Related Stigma and Discrimination among People in Tanzania*. Rwanda Journal Series F: Medicine and Health Sciences, 2015, Vol. 2, No.1, pp.31-41. Available at <https://www.ajol.info/index.php/rj/article/view/123967/113487> [accessed on 22 June, 2022].

4 For instance, TACAIDS, *Report on the Legal Environment Assessment in Response to HIV/AIDS within the United Republic of Tanzania*, TACAIDS, Dar Es Salaam, 2015; USAID, *The Health Policy Initiative in Tanzania: End of Project Report, 2005–2008*, USAID, 2010; REPOA, *Influencing Policy for Children in Tanzania: Lessons from Education, Legislation and Social Protection*, REPOA, Dar es Salaam, 2009; and Kisinza,

W., Makundi A., etal, *Stigma and Discrimination on HIV/AIDS in Tanzania*. Tanzania Health Research Bulletin, 2002, Vol.4, No2, pp.42-46.

5 TACAIDS (No.4 above).

6 Ibid, pp.1-12; USAID (No.4 above); REPOA (No.4above); and Kisinza, (No.4above).

7 The People living with HIV/AIDS- social justice to counter stigma & discrimination: development of a social rights approach as an advocacy method project is project funded by VLIR-UOS and implemented in collaboration between the Faculty of Law (Mzumbe University) and the Faculty of law (Ghent University). The overall objective of the project was to offer human rights (social rights) responsive approach to people living with HIV/AIDS. The idea was to improve the way to social justice by implementing effective and sustainable advocacy mechanisms and strategies that will counter stigma and discrimination through better acceptance and understanding the needs and concerns, PLWHIVA in Tanzania. It was a two year project which started in 2020 and expected to end in 2021. However, because of COVID

Councils were Makambako District Council in Njombe Region, Shinyanga Municipal Council in Shinyanga Region, Hai District Council in Kilimanjaro region, and Temeke Municipal Council in Dar Es Salaam Region.

Generally, the article is based on qualitative data. It is organised into eight major items- introduction; the law on HIV/AIDS stigma and discrimination; types, causes and perpetrators of HIV Stigma and Discrimination; Socio-economic impact of HIV/AIDS stigma and discrimination; national efforts to counter HIV/AIDS stigma and discrimination; challenges in addressing HIV/AIDS stigma and discrimination; how to effectively address HIV/AIDS stigma and discrimination; and conclusion. The next item examines the law on HIV/AIDS stigma and discrimination in Tanzania.

## 2.0 The Law on HIV/AIDS stigma and Discrimination

HIV/AIDS stigma and discrimination is a global cross-cutting issue. It is prohibited not only in Tanzania but also prohibited at the international and regional levels. As such, the legal basis of countering stigma and discrimination towards PLWHIVA is founded in international and regional instruments as customized under national legal frameworks. Tanzania is a member of the United Nations (UN) and the African Union (AU) and, therefore, she has the obligation towards a number of international and regional instruments that condemn stigma and discrimination towards PLWHIVA. It is, thus, worthwhile under this item to, albeit briefly, examine the provisions of the international and regional instruments that relate to HIV/AIDS stigma and discrimination along with the national legal framework. Let us start our discussion hereunder with the International and regional instruments.

19 interruptions, the project was extended to 2022. Therefore, without prejudice, the author of this article highly acknowledges the contribution of his fellow project members, especially- Dr. Hanifa T Masawe (Local Project Coordinator); Dr. Sarafina Bakta; and Mr. Hassan Kimela for their contribution and allowing him to use the information obtained from the said study to develop this article.

## 2.1 International and Regional Instruments

The most important international and regional instruments that constitute the legal basis for addressing HIV/AIDS stigma and discrimination in Tanzania include the Universal Declaration of Human Rights, 1948 (UDHR),<sup>8</sup> the International Covenant on Civil and Political Rights, 1966 (ICCPR),<sup>9</sup> the International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR),<sup>10</sup> the Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW),<sup>11</sup> ILO Discrimination (Employment and Occupation) Recommendation, 1958 (ILO Recommendations),<sup>12</sup> Declaration of Commitment on HIV/AIDS,<sup>13</sup> and the African Charter on Human and Peoples' Rights, 1981 (ACHPR).<sup>14</sup>

The UDHR marks the bedrock of all other International and regional instruments. The UDHR provides a number of non-discriminatory rights which, though not directly referring to HIV/AIDS stigma and discrimination, constitute the legal basis for countering stigma and discrimination towards people living with HIV/AIDS in Tanzania. These rights include-equality

8 UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), available at: <https://www.refworld.org/docid/3ae6b3712c.html> [accessed 4 August 2022].

9 UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://www.refworld.org/docid/3ae6b3aa0.html> [accessed 4 August 2022].

10 UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <https://www.refworld.org/docid/3ae6b36c0.html> [accessed 4 August 2022].

11 UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: <https://www.refworld.org/docid/3b00f2244.html> [accessed 6 August 2022].

12 International Labor Organization (ILO), *Discrimination (Employment and Occupation) Convention, C111*, 25 June 1958, C111, available at: <https://www.refworld.org/docid/3ddb680f4.html> [accessed 6 August 2022].

13 UN General Assembly, *Declaration of Commitment on HIV/AIDS*, 2 August 2001, A/RES/S-26/2, available at: <https://www.refworld.org/docid/3dda1a037.html> [accessed 12 August 2022] Art16.

14 Organization of African Unity (OAU), *African Charter on Human and Peoples' Rights ("Banjul Charter")*, 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), available at: <https://www.refworld.org/docid/3ae6b3630.html> [accessed 6 August 2022].

and dignity, the right to life, liberty and the security of person;<sup>15</sup> the equal protection under the law without any discrimination;<sup>16</sup> the right to freedom of movement and residence;<sup>17</sup> the right to marry and to have a family;<sup>18</sup> the right to social security;<sup>19</sup> the right to work under just and favorable conditions, equal pay, just and favorable remuneration and protection against unemployment without any discrimination;<sup>20</sup> the right to a standard of living adequate for the health and well-being;<sup>21</sup> and the right to education.<sup>22</sup> The PLWHIVA are like any other person notwithstanding their HIV/AIDS status. As human beings, they are entitled to all of the rights declared under the UDHR without discrimination.<sup>23</sup> This implies that, any policy, law or practice(s) towards PLWIVA which is inconsistent with these rights, amounts to discrimination towards PLWIVA. The rights laid down under the UDHR are amplified in the two binding covenants- the ICCR and the ICESCR.

The ICCPR amplifies the important civil and political rights declared under the UDHR. State parties (including Tanzania) are required to heed these rights in their legal systems.<sup>24</sup> These rights which are very relevant on the basis of addressing stigma and discrimination to PLWHIV/AIDS include- the inherent right to life;<sup>25</sup> protection against inhuman or degrading treatments and subjection to medical or scientific experimentation without free consent;<sup>26</sup> the right to liberty and movement;<sup>27</sup> the right to recognition;<sup>28</sup> the right to freedom of thought, conscience and religion;<sup>29</sup> the right to hold opinions without interference

including freedom to seek, receive and impart information and ideas of all kinds;<sup>30</sup> the right to marry and form family;<sup>31</sup> the right of a child to protection in the family, society and the State;<sup>32</sup> the right to take part in the conduct of public affairs;<sup>33</sup> and right to equal protection of the law.<sup>34</sup>

The ICESCR provides for the economic, social and cultural rights which are also very important in constituting the legal basis to address stigma and discrimination towards PLWHIV/AIDS in Tanzania. The ICESCR enumerates a number of rights that rest at the core of economic, social and cultural rights the PLWHIV/AIDS in Tanzania. They include- the right to work;<sup>35</sup> the right to just and favorable working conditions such as fair remunerations, safe and healthy working environment, equal promotion opportunities and reasonable working hours;<sup>36</sup> right to social security;<sup>37</sup> right to protection of mothers before and after childbirth, protection and social assistance to all children and young persons without any discrimination;<sup>38</sup> right to an adequate standard of living;<sup>39</sup> right to the enjoyment of the highest attainable standard of physical and mental health;<sup>40</sup> and the right to education.<sup>41</sup>

Besides the ICCPR and the ICESCR, there are two more important international instruments- the CEDAW and the ILO Recommendations. As will be seen in the due course under item 4.0 below, women are more affected by HIV/AIDS stigma and discrimination than men. The UN therefore, took deliberate affirmative steps to protect women by passing and adopting the CEDAW in 1979.<sup>42</sup> This Convention reiterates a

15 UDHR (No.8 above) Arts 1& 3.

16 Ibid, Art.7

17 Ibid, Art.13

18 Ibid, Art.16

19 Ibid, Art.22

20 Ibid, Art. 23

21 Ibid, Art.25

22 Ibid, Art.26

23 Ibid, Art. 2.

24 The ICCPR (8), Art2.

25 Ibid, Art 6.

26 Ibid, Art 7.

27 Ibid, Art12.

28 Ibid, Art 16.

29 Ibid, Art 18.

30 Ibid, Art 19.

31 Ibid, Art 23.

32 Ibid, Art 24.

33 Ibid, Art 25.

34 Ibid, Art 26.

35 The ICSECR (No.10 above) Art 6.

36 Ibid, Art7.

37 Ibid, Art9.

38 Ibid, Art10.

39 Ibid, Art 11.

40 Ibid, Art 12.

41 Ibid, Art 13.

42 CEDAW (No.11 above).

number of important ant-discrimination rights specifically towards women which also form part of the UDHR and the ICESCR. Specifically, the CEDAW in assonance with the UDHR and the ICESCR requires all state parties to eliminate discrimination against women in employment. This, among other things, includes ensuring women the right to work, freedom to choose profession and employment, equal remuneration and other benefits, social security as well as health and safe working conditions.<sup>43</sup> It further requires state parties to take all measures to eliminate discrimination against women in all matters relating to marriage and family relations.<sup>44</sup>

Like the CEDAW, the ILO Recommendations address issues of discrimination in employment and occupations but unlike the former, the latter is not limited to women only. The ILO Recommendations require all member states to formulate national policies and legislation to prevent discrimination in employment and occupations. The employment policy and legislation should, among other things, promote equal opportunities and treatment on employment matters especially- on choice of employment; vocational and training; promotion on the basis of character, experience, ability and diligence; security of tenure, remunerations; and conditions of work.<sup>45</sup> Of all the international instruments, the UN Declaration of Commitment on HIV/AIDS is the most important instrument because it specifically addresses HIV/AIDS stigma and discrimination towards PLWHIVA. Explicitly, the declaration requires member states to addresses the spread of HIV/AIDS and eliminate all HIV/AIDS related stigma and discrimination. For instance, under Article 13, the Declaration appeals to all member states to address stigma and discrimination and confidentiality of the PLWHIVA status. It makes it plain that stigma and discrimination towards PLWHIVA and lack of confidentiality undermine the HIV/

AIDS prevention, care and treatment efforts. The Declaration further provides that stigma and discrimination towards PLWHIVA and lack of confidentiality increase the impact of the epidemic on individuals, families, communities and nations. Furthermore, Article 16 of the declaration declares full realization of human rights and fundamental freedoms for all as an essential element in the global response to prevent stigma and discrimination against PLWHIVA.

The provisions of the above discussed international instruments have been synthesized in regional instruments including the ACHPR. In Africa, the ACHPR is the most important regional instrument that constitutes the legal basis for countering stigma and discrimination towards PLWHIVA. This charter synthesizes the provisions of all the international instruments discussed in this section above and makes it mandatory for African member states to heed the same in their national legal systems.<sup>46</sup>

Accordingly, the ACHPR requires its member states to ensure every person enjoys- equal protection of the law;<sup>47</sup> respect of life and dignity inherent in a human being and to the recognition of his legal status;<sup>48</sup> the right to liberty and to the security of his person;<sup>49</sup> the right to receive information and the right to express and disseminate opinions within the law;<sup>50</sup> the right to freedom of movement and residence;<sup>51</sup> the right to work under good conditions and pay;<sup>52</sup> the right to the best attainable state of physical and mental health through provision of medical attention and care;<sup>53</sup> the right to education and taking part in the cultural life of the community;<sup>54</sup> and the right to social protection of the family on equal basis.<sup>55</sup>

46 ACHPR (No.14) Art1 & the Preamble.

47 Ibid, Art3.

48 Ibid, Art 4 &5.

49 Ibid, Art 6.

50 Ibid, Art 9.

51 Ibid, Art 12.

52 Ibid, Art 15.

53 Ibid, Art16.

54 Ibid Art 17.

55 Ibid, Art 18.

43 ILO Recommendations (No.12 above) Art 11(1&2).

44 Ibid, Art 16.

45 Ibid, Art2.

Tanzania being a member state of the ACHPR, she is under the obligation to ensuring that every person enjoys the rights provided under the ACHPR in Tanzania.<sup>56</sup> With special emphasis to the PLWHIV/AIDS, the government has the duty to ensuring that no person is deprived any of the rights recognized under the ACHPR by reasons of his or her HIV status. Not only the ACHPR, but also, the Government is obligated to ensure that its policies and legislation lead to the realization of the civil, political, economic, social and cultural rights provided under the international instruments to which Tanzania is a member state.<sup>57</sup> The discussion made under this section forms the basis of my discussion in the next item that examines the national legal framework on HIV/AIDS stigma and discrimination in Tanzania.

## 2.2 The National Legal Framework

Anti-HIV/AIDS stigma and discrimination law in Tanzania is not straightforward provided by any specific legislation. It can only be inferred from the provisions of the Constitution of the United Republic of Tanzania, 1977<sup>58</sup>(the Constitution); the HIV and AIDS (Prevention and Control) Act,<sup>59</sup> and the Employment and Labor Relations Act, 2004(ELRA)<sup>60</sup> and its Regulations.<sup>61</sup>This section attempts to examine the said legal provisions and their enforcement mechanisms.

Though not explicitly, the legal foundation of anti-HIV/AIDS stigma and discrimination in Tanzania is founder under Articles 12 and 13 of the Constitution. Article 12 of the Constitution provides that all human beings are equal and that every person is entitled to recognition and respect for his dignity. This

56 ACHPR (No.47 above).

57 United Nations (UN), *International Human Rights Law*, OHCHR 2022, Available at <https://www.ohchr.org/en/instruments-and-mechanisms/international-human-rights-law#:~:text=By%20becoming%20parties%20to%20international,the%20enjoyment%20of%20human%20rights> [accessed 4 August 2022].

58 CAP.2, R.E.2002.

59 Act No.28 of 2008.

60 CAP.366, R.E. 2019.

61 The Employment and Labor Relations (Code of Good Practice) Rules, 2007(the Code), G.N.No.42 of 2007.

constitutional provision denotes that every person, notwithstanding his or her health status, must be accorded equal treatment and respect of his or her dignity. This constitutional provision takes aboard the provisions of the UDHR and ICCPR.<sup>62</sup> It is also in line with the Convention on the Elimination of All Forms of Discrimination against Women and the ILO Recommendations and the ACHPR.<sup>63</sup> Stigma and discrimination towards PLWHIVA cannot be said to be consistent with the right to equality of all persons and human dignity provided under Article 12 of the Constitution. Thus, it can be said that the PLWHIVA in Tanzania are protected against stigma and discrimination under Article 12 of the Constitution.

The right of PLWHIVA against stigma and discrimination is also founded on the provisions of Article 13 of the Constitution which provides that all persons are equal before the law and are entitled, without any discrimination, to protection and equality before the law. The provisions of Article 13 further prohibit the enacted of any law by any authority in the United Republic that shall make any provision which discriminatory by itself or in its effect. This means, for the purpose of PLWHIVA, all the laws made by legislative authorities in Tanzania should neither directly nor impliedly stigmatize nor discriminate the PLWHIVA. All the authorities entrusted with the discharge of the functions or business of the state under any law are prohibited to discriminate any person (including the PLWHIVA).

The provisions of articles 12 and 13 of the Constitution lay a solid basis of protection of PLWHIVA against stigma and discrimination in Tanzania despite the fact that the said provisions do not specifically mention PLWHIVA. The two articles give effect to the provisions of the UDHR, ICCPR, the CEDAW

62 UDHR (No.8 & No.16 above) and the ICCPR (No.9 & No.26 above).

63 CEDAW (No.11 & No. 42 above); ILO Recommendations (No.11& No.45 above); and ACHPR (No.12, No. 45 & No.47 above).

and the ACHPR.<sup>64</sup> Nonetheless, the challenge which seems to ensue is the enforcement of the said provisions. The provisions of Articles 12 and 13 are enforceable under articles 26 and 30(5) of the Constitution read together with the provisions of sections 3,4,5,6 and 7 of the Basic Rights and Duties Enforcement Act, 1994(BRADEA). The applications made under articles 26 and 30(5) and sections 3,4,5,6 and 7 of BRADEA are constitutional litigation which are usually petitioned against the state.

But, as noted in this article under item 3.2.3 *infra*, most of the perpetrators of HIV/AIDS stigma and discrimination are family and community members other than the state. The legal system of Tanzania is yet to establish mechanisms through which constitutional rights can be enforced against natural persons. Therefore, it is difficult for an individual who has encountered HIV/AIDS stigma and discrimination by a family or community member to knock the door of the court in Tanzania unless such a claim is persuaded through specific private law litigation such as employment disputes under the Employment and Labor Relations Act, 2004,<sup>65</sup> and the Employment and Labor Relations (Code of Good Practice) Rules, 2007.<sup>66</sup>

Apart from the Constitution, HIV/AIDS stigma and discrimination is also strictly prohibited under the HIV and AIDS (Prevention and Control) Act. The Act prohibits any person (the Government) to formulate any policy or enact any legislation which directly or by its implication discriminates PLWHIVA, orphans or their families.<sup>67</sup> It further specifically requires every owner, manager or in charge of health care facility and every health practitioner to provide PLWHIVA health facilities without any form of stigma and discrimination.<sup>68</sup>

The duty not to discriminate or stigmatize a

64 UDHR, ICCPR, CEDAW & ACHPR (No.62 & No.63 above).

65 ELRA (No.60 above) s.7 (4) (m); s.8 (2&2).

66 The Code (No.61 above), Rule 20.

67 The HIV-IDS Act (No.59 above) s.28.

68 *Ibid.*, ss.24&29.

person on the ground of his or her actual or perceived HIV/AIDS status is also imposed to any member of the public irrespective of his role in the community.<sup>69</sup>

That is, every person is prohibited to: deny or restrict any person from admission, participation into any service or expel such other person from any institution; deny or restrict any person from traveling within or outside Tanzania; deny any person employment opportunity; deny or restrict a person to live anywhere; and deny any person the right of residence on the grounds of his/her actual, perceived or suspected HIV and AIDS status.<sup>70</sup> Besides prohibition, the Act makes HIV/AIDS stigma and discrimination an offence, punishable by a fine not less than two million shillings or imprisonment for a term not less than one year or both.<sup>71</sup>

The HIV and AIDS (Prevention and Control) Act also prohibits several other aspects which in one way or other relate to stigma and discrimination against PLWHIVA in Tanzania. Among such other aspects include forceful testing and disclosure of HIV testing results. The Act requires HIV testing to be voluntary and the HIV testing results and treatment to be kept confidential.<sup>72</sup> It also pronounces some basic rights of PLWHIVA. Such rights include the right to highest attainable standard of physical and mental health, the right to treatment of opportunistic infections, the right to access education and basic health care.<sup>73</sup> The HIV and AIDS (Prevention and Control) Act has to large extent accommodated the provisions of the UDHR<sup>74</sup>, the ICCPR,<sup>75</sup> the ICESCR<sup>76</sup> and the ACHPR.<sup>77</sup> If the Act were operative, it would perhaps provide effective protection against HIV/AIDS stigma and discrimination

69 *Ibid.*, s.31.

70 *Ibid.*, s.30.

71 *Ibid.*, s.32.

72 *Ibid.*, ss.15, 16 &17.

73 *Ibid.*, ss. 33-34.

74 UDHR (No.8 above) Arts 1, 3, 13, 23, 25 &26.

75 ICCPR (No.9 above) Arts 7, 12, &16.

76 ICESCR (No.10 above) Arts6, 11, 12 &13.

77 ACHPR (No.14 above) Arts4, 5, 6,15,12,16 &17.

towards PLWHIVA in Tanzania.

Moreover, the HIV and AIDS (Prevention and Control) Act requires any person whose right has been contravened to lodge a complaint to either: secretary to the village, ward, District or urban AIDS committee; police station; owner, manager or in-charge of a health care facility; or to the employer as the case may be.<sup>78</sup> The complaint must disclose the necessary information in relation to the complaint.<sup>79</sup> These provisions of sections 51(1-2) of the HIV and AIDS (Prevention and Control) Act provides the authorities responsible for enforcement of the rights against HIV/AIDS stigma and discrimination. However, the mode of lodging and handling the complaints is to be prescribed in regulations to be made by the Minister.<sup>80</sup> Surprisingly, as it may be, to date, the envisaged regulations prescribing the mode of lodging and handling complaints are yet to be made by the Minister. This implies that the Act is non-operational, and therefore, difficulty to enforce the rights of the PLWHIVA recognized and protected under the Act.

Apart from the HIV and AIDS (Prevention and Control) Act, stigma and discrimination against PLWHIVA is also prohibited under the ELRA in all workplaces and employment settings in Tanzania. The ELRA requires every employer to promote equal opportunity in employment and strive to eliminate discrimination in any employment policy or practice.<sup>81</sup> It expressly prohibits any employer to discriminate directly or indirectly against an employee in any employment policy or practice on the grounds of HIV/AIDS.<sup>82</sup> This prohibition is not only confined to an employer but also extended to trade unions and employers associations.<sup>83</sup> Whoever contravenes these provisions commits an offence.<sup>84</sup> These provisions of sections 7 and

8 of the ELRA give effect to the provisions of the UDHR<sup>85</sup>, the ICESCR<sup>86</sup> and the ACHPR<sup>87</sup> to ensure PLWHIVA are not discriminated by reasons of their HIV/AIDS status in Tanzania.

Furthermore, for proper administration of the ELRA, the Minister made the Employment and Labor Relations (Code of Good Practice) Rules, 2007.<sup>88</sup> This code provides the procedures for handling PLWHIVA at workplace. The code provides that no employee shall be terminated merely on the basis of HIV/AIDS status.<sup>89</sup> HIV infected persons are required to continue working under normal conditions in their employment provided that they are medically fit to do so.<sup>90</sup> Where an employee cannot continue with normal employment because of HIV/AIDS related illness, the employer is required to find him/her an alternative employment without affecting the employee's benefits.<sup>91</sup> Only when the employee becomes too ill to continue in employment that by collective agreement his/her employment may be terminated due to incapacity on grounds of ill health.<sup>92</sup>

If closely examined, one can note that the ELRA and the Employment and Labor Relations (Code of Good Practice) Rules provide substantial and procedural safeguards against stigma and discrimination towards PLWHIVA in Tanzania. However, there is nowhere, save the labor institutions, that a victim of HIV/AIDS stigma and discrimination can enforce his rights. This could be one of the contributing factors for the continued HIV/AIDS stigma and discrimination in Tanzania. It is skeptical if the labor institutions like the Commission for Mediation and Arbitration (CMA) can best serve as institutions to enforce the rights of

78 Ibid, s.51 (1).

79 Ibid, sub-section 2.

80 Ibid, sub-section 3.

81 ELRA (No.60 above), s. 7(1).

82 Ibid, sub-section 4(m).

83 Ibid, s. 8.

84 Ibid.

85 UDHR (No.8 above) Arts 13& 23.

86 ICESCR (No.10 above) Art 6.

87 ACHPR (No.14above) Art 15.

88 The Code (No.61 above).

89 Ibid, rule 20(1).

90 Ibid, sub-rule 2.

91 Ibid, sub-rule 3.

92 Ibid, sub-rule 4.

PLWHIVA discriminated at workplace having regard to the sensitivity of the problem itself and the issue of confidentiality of one's HIV/AIDS status. Having seen the position of the law and its enforcement, let me turn to the types, causes and perpetrators of HIV stigma and discrimination in Tanzania in the next item.

### **3.0 Types, Causes and Perpetrators of HIV Stigma and Discrimination**

This item presents and expounds the extracts of the findings obtained from desk review and field interviews on the types, causes and the perpetrators of HIV/AIDS stigma and discrimination in Tanzania.<sup>93</sup> The idea is to illustrate the practical situation of HIV/AIDS stigma and discrimination in Tanzania and gauge the role and efficacy of the anti-HIV/AIDS law in Tanzania. Review of documents and field study revealed that there are two major forms of HIV/AIDS stigma and discrimination- external stigma and discrimination (66.7%) and self-stigma and discrimination (57.5%). Both types of stigma are caused by legal and non-legal factors and involve a number of perpetrators starting with family members.

#### **3.1 External and Self-HIV/AIDS Stigma and Discrimination**

Documentary review and in-depth interviews with key respondents revealed that, external stigma and discrimination is external to the victim of HIV/AIDS infection. It happens in different forms such as when the community or family members discover or suspect that someone or family member is HIV/AIDS infected, they isolate him by not involving him or her in some family and social activities such cooking foods in funeral ceremonies and other community events on fear that they will be affected. Social stigma and discrimination also involves ignoring an individual's contributions or ideas in family or village/street meetings; pointing fingers at someone

that he or she is HIV/AIDS infected; avoiding to sit or touch some one's body or clothes in fear of infection; and speaking obscene words to a person who is real or suspected of HIV/AIDS infection.

Furthermore, documentary review and in-depth interviews revealed that self-stigma and discrimination is internal to the victim of stigmatization and discrimination. It involves an individual who is infected by HIV/AIDS stigmatizing or isolating himself from family members or community members. Nonetheless, discussion with key informants in the councils studied revealed that there is a close relationship between external and self-stigma and discrimination. Self-stigmatization and isolation of PLWHIV is contributed by the societal or family unwelcome behaviors and conducts towards PLWHIV/AIDS. Since as noted above, there is no effective legal avenue for protection of the PLWHIV/AIDS against discrimination, isolate themselves from the community in fear of stigmatization and discrimination. However, sometimes PLWHIV/AIDS experience external stigma and discrimination because of self-stigma and self-isolation which gives people a chance of suspecting them of HIV/AIDS infection.

#### **2.2 Causes of HIV Stigma and Discrimination**

There are numbers of reasons for prevalence of HIV/AIDS stigma and discrimination in Tanzania. However, they can broadly be grouped into two factors- legal factors and social factors. Whereas legal factors are those surrounding the legal domain, social factors are those beyond the ambit of the law. Even though the focus of the article is law, desk review and interviews seem to suggest that the inefficiency of the law is partly contributed by other factors outside the ambit of law. For clarity purpose, the article discusses the said factors in separate sub-headings.

93 VLIR-UOS project (No.7 above).

## 2.2.1 Legal Factors

It has been noted under item 2 above that PLWHIV/AIDS in Tanzania are given sufficient legal protection against stigma and discrimination under the Constitution, the HIV and AIDS (Prevention and Control) Act and under the Employment and Labor Relations Act. Nonetheless, the legal system of Tanzania is yet to establish mechanisms through which constitutional rights can be enforced against natural persons. It is difficult for an individual who has encountered HIV/AIDS stigma and discrimination by a family or community member to knock the door of the court for redress, unless such a claim is persuaded under specific private law especially through labor institutions under the Employment and Labor Relations Act and the Employment and Labor Relations (Code of Good Practice) Rules. Even the said labor institutions are not effective legal avenues for enforcing matters of HIV/AIDS stigma and discrimination. Let alone being specifically for labor matters, the composition and procedures of the labor institutions may not be suitable for HIV/AIDS stigma and discrimination matters because of the sensitivity of the problem itself and the need for confidentiality of one's HIV/AIDS status.

It has also been noted under item 2 above that, the HIV and AIDS (Prevention and Control) Act allows the Minister to make regulations prescribing the mode of lodging and handling complaints against, among other things, HIV/AIDS stigma and discrimination. The envisaged regulations are yet to be made. This implies that it is difficult to enforce the rights of the PLWHIVA recognized and protected under the Act. Let alone the absence of and the difficult to enforce the rights of the PLWHIVA, the Act also contains some provisions whose implication is to stigmatize and discriminate PLWHIV/AIDS.

One of such provisions of the HIV and AIDS (Prevention and Control) Act which

by implication is discriminative is the provision of section 15(4-5) which provides for compulsory HIV testing under specified circumstances, section 18 which allows disclosure of results to persons other than the respective individual and section 21(1) (b) that compels an individual to inform his or her spouse or sex partner his or her HIV testing results. Even though the idea is good-to prevent transmission, but its implication is inconsistent with the right to one's HIV status to be kept confidential and voluntary testing.

## 2.2.2 Social Factors

Apart from the legal factors seen in the preceding item, there are also other factors which hinder effective implementation of law against HIV/AIDS stigma and discrimination in Tanzania. Among the social factors found from desk review and interviews were wrong perception of the people towards PLWHIVA. Interviews with key respondents in the four councils visited revealed that many people (83.3%) believe that if they associate with PLWHIV/AIDS such as eating together, sitting near to them or coming into contact with them or sharing things like clothes and utensils they will be infected. This wrong perception is caused by low level community awareness caused by insufficient education provided to the people.

Despite the fact that perception of the people is a function of community awareness and attitude of the people beyond the purview of the law, the same would have been changed if the government fulfilled its obligation imposed by the international and national law to provide regular community education and awareness. The UDHR, the ICCPR and the ACHPR provide for the right of the people to get education and receive information and ideas of any kind.<sup>94</sup> Also section 7 of the HIV and AIDS (Prevention and Control) Act requires the Ministry responsible for health matters in consultation with Local

94 UDHR (No.8 above) Art26; the ICCPR (No.9 above) Art 19; and the ACHPR (No.14 above) Art9.

Government Authorities (LGAs) and other relevant stakeholders to formulate education programs relating to prohibition of stigma and discrimination towards PLWHIVA or people taking care of PLWHIVA. Not only that but also section 8 and 9 provide for provision of HIV/AIDS information and education at workplace and to the public.

The above provisions of section 7, 8 and 9 of the HIV and AIDS (Prevention and Control) Act requires the Ministry, health practitioners, workers in the public and private sectors as well as NGOs to disseminate HIV/AIDS information to the public. Let alone the provisions of international and regional instruments, if the provisions of section 7, 8 and 9 were operational and effectively implanted, HIV/AIDS stigma and discrimination would be low because of changed altitude of community members. In contrast, the practical situation is the notable feature. For example, in an in-depth interview with key respondents in Hai District Council, one of the PLWHIVA had this to say-

My 25-years-old daughter has been banished from my home by village leaders because she stigmatized me so much... she was taught by a neighbor that I am HIV infected and therefore she should not associate with me in anything even sharing soap or else she will also be infected. This daughter never touches me, my clothes or food utensils that I use. No matter how sick I am, she cannot cook for me or wash my clothes for fear of being infected as she was told by a neighbor.<sup>95</sup>

The above quoted interview response evidences that many community members stigmatize and discriminate PLWHIV/AIDS because of fear of being infected. It

is, therefore, the stand of the author that although community perception is not directly the question of law, the same could be changed and eliminate stigma and discrimination towards PLWHIVA if the provisions of sections 7, 8 and 9 of the HIV and AIDS (Prevention and Control) Act were operational and effectively implemented. The perception of the people is highly influenced by their level of awareness. For instance, review of documents and in-depth interviews with health care facilities employees revealed that HIV/AIDS stigma and discrimination is very low in hospitals and health centers compared to families and the general public. This is an outcome of reduced fear of infection because of high degree of awareness and availability of adequate protective gears and infection prevention controls such gloves and *post-exposure prophylaxis* in the health care facilities.

### 3.2.3 Perpetrators of HIV Stigma and Discrimination

In-depth interviews with people living with HIV and other key respondents in the aforementioned councils revealed that HIV/AIDS stigma and discrimination exists in all areas- in the families(70%); on streets (70%); churches (65%); in schools (50%); in health facilities (39%); and other areas like social gatherings and workplace (40%). As the statistics show, stigma is low at work places and least in health care facilities. This is likely to be influenced by the level of education and awareness of the people as noted in the preceding item. In line with the statistics on the percentages of HIV/AIDS stigma and discrimination, interviews revealed that the main perpetrators of HIV/AIDS stigma and discrimination are twofold- first family members and close friends (70%) and second, community members in communities

95 In-depth interviews conducted with PLWHIV/AIDS in Hai-Kilimanjaro Region in January, 2022.

with inadequate knowledge on HIV/AIDS transmission (70%). This suggests that, if public education programs are formulated and HIV information is disseminated to the public as required by the provisions of sections section 7, section 8 of the HIV and AIDS (Prevention and Control) Act, there is great potential of eliminating HIV/AIDS stigma and discrimination in Tanzania along with associated impacts discussed in the next item.

#### 4.0 Socio-economic Impact of HIV/AIDS Stigma and Discrimination

Interviews with PLWHIVA, health facilities workers and other key respondents in the four selected councils revealed that HIV/AIDS stigma and discrimination has great negative impacts to all PLWHI/AIDS in both rural and urban areas in Tanzania. Most affected groups are women (87%), the youth (80%) and poor (65%). On one hand, Women are more vulnerable to HIV/AIDS stigma and discrimination because of low income and social responsibility. On the other hand, the youth suffer are more susceptible to HIV/AIDS stigma and discrimination that elderly people on matters of relationship and marriage because the age of the latter is already gone; the issue of relationship and marriage is no more a big issue like the former.

The social impact of HIV/AIDS stigma and discrimination to women and the youth was exemplified by one of the girl in Shinyanga who said, “We young women lack men to partner with because once they hear that we are HIV positive, they do not come back, and the relationship ends there.”<sup>96</sup> Therefore, HIV/AIDS stigma and discrimination denies the PLWHIVA the right to marry and form family as declared under the UDHR, the ACHPR.<sup>97</sup> Similar responses transpired in Kilimanjaro, Hai District where in interview with PLWHIVA one young lady whose

engagement broke down because of HIV status narrated the following-

*I parted with my first husband because when we got HIV test, I was found positive while he was not. Upon counselling, he agreed to continue living with me and we continued having sexual intercourse as usual without even using a condom. After nine months he stated saying I should not get pregnancy. From then, he started stalking me and worst still; he destroyed my medical identity card. I decided to leave him to save my life because I had even stopped taking my ARVs. Later on, I got pregnancy with another man. It was very difficult to disclose of status to him but at last, I decided to tell him as a joke and see his reaction. He became every upset and called me a witch that I wanted to kill him. When I went to CTC, I was told to bring the man whose pregnancy I am carrying. I couldn't dare for I feared he would kill me. I was attended and gave birth to a healthy boy. Later, I got another pregnancy with another man. I asked myself, should I tell him or not? Let come what may, I decided to tell him; I was severely beaten that I cannot forget. To save my life, I had to rebut my statement by telling him that it was just a joke. I then never dared to take him with me to clinic and the engagement ended thereat. To date, I have no desire to marry a man...if I have sexual desire, I go with a man but I can never dare to tell him about my HIV/AIDS status.<sup>98</sup>*

The above quoted interview response shows that HIV/AIDS stigma and discrimination not only affects the youth and women in marriage and relationship, but also affects them in taking and adhering to their medication.

<sup>96</sup> In-depth interviews conducted with PLWHIV/AIDS in Shinyanga Region in January, 2022

<sup>97</sup> UDHR (No.8 above) Art 16, and the ACHPR (No.14 above) Art18.

<sup>98</sup> In-depth interviews conducted with PLWHIV/AIDS in Hai-Kilimanjaro Region in January, 2022.

Thus, HIV/AIDS stigma and discrimination has also adverse impacts on HIV/AIDS transmission in Tanzania. Because of actual or anticipated stigma and discrimination many people fear to undergo HIV test hence unknowingly spreading infection to others. As exemplified in the preceding quotation, stigma and discrimination also affects the use of ARTs because of psychological stress and depression. Some PLWHIVA, because of fear of being stigmatized, decide not to attend clinic for counselling and treatment and other fail to take their medications as prescribed hence resulting into deaths due to opportunist diseases. Thus, stigma and discrimination towards PLWHIVA causes infringements of their right to life and the right to highest attainable standard of physical and mental health as well as the right to treatment of opportunistic infections guaranteed by international instruments and the HIV and AIDS (Prevention and Control) Act.<sup>99</sup>

## 5.0 National Efforts to Eliminate HIV/AIDS Stigma and Discrimination

In-depth interviews with key respondents revealed that there have been several recommendable efforts to combat HIV/AIDS stigma and discrimination in Tanzania. The Government has taken bold decisions including the creation of Tanzania commission for HIV/AIDS,<sup>100</sup> formulation of the National Guidelines for the Management of HIV and AIDS<sup>101</sup> and enactment of the HIV and AIDS (Prevention and Control) Act. Of course, these efforts are yet to bring maxim impact because, as noted under item 2.0 above, the HIV and AIDS (Prevention and Control) Act is yet to come into force. Notwithstanding the Act being not operational, the Government has also taken tremendous efforts to supply ARTs

to PLWHIV/AIDS throughout the country. It also established counseling and treatment centers (CTC) in every health center, Council and district hospitals, regional hospitals and the national referral Hospital. The government has also made recommendable efforts in provision of protective gears including groves and *prophylaxis* health workers.

Even though, as noted under item 2.0 above, that the HIV and AIDS (Prevention and Control) Act is yet to come into operation, community awareness has been provided along with provision of Counselling and treatment in CTC and in communities by public health care workers; education by TACAIDS and NGOS. At times, the police-gender desk and Council social welfare officials also used to PLWHIV/AIDS the community to provide awareness to the people on HIV transmission and issues related to HIV/AIDS stigma and discrimination. Special programs were also designed and broadcasted through private and public media.

It was nonetheless found through interviews in the visited councils that most of these awareness creation mechanisms are currently in-existent. This laxity and omission of the legal duty imposed on the respective Ministry under the provisions of sections 7, 8 and 9 of the HIV and AIDS (Prevention and Control) Act deprives the emerging generation right to get education and information about not only HIV transmission but also about HIV/AIDS stigma and discrimination. It was for example been noted through in-depth interviews that most of the respondents (90%) had very little understanding of HIV/AIDS stigma and discrimination and the law and policies thereto. They also demonstrated to have little understanding (20%) of the available legal authorities for enforcement of the rights against HIV/AIDS stigma and discrimination. This obstructs the Government efforts to eliminate stigma and discrimination against PLWHIVA in Tanzania as detailed in the subsequent item.

99 UDHR (No.8 above) Arts3 & 25; ICESCR (No.10 above) Art s11 &120; ACHPR (No.14 above) Arts 4,5 &16; and HIV and AIDS (Prevention and Control) Act (No.59) ss. 33-34.

100 Established under section 4 of the Tanzania Commission for AIDS Act, CAP:379, and R.E.2002.

101 Government of the Untied Republic of Tanzania, National Guidelines for the Management of HIV and AIDS, 7<sup>th</sup> Ed, Ministry of Health, Community Development, Gender, Elderly, and Children, Doroma, 2019.

## 6.0 Challenges to Eliminate HIV/AIDS Stigma and Discrimination

The main challenges that the study found in addressing HIV/AIDS stigma and discrimination in Tanzania are twofold: weaknesses in the law and its enforcement and low community awareness. Among the two, weaknesses in the law and its enforcement supersede the other. As it has already been noted under item 2.0 above, the legal system of Tanzania is yet to establish mechanisms through which constitutional rights can be enforced against natural persons. It is thus difficult for an individual who has encountered HIV/AIDS stigma and discrimination by a family or community member to knock the door of the court to battle for his or her rights under the provisions of Articles 12, 13 and 26 of the Constitution. It has also been noted that regulations to prescribe the mode of lodging and handling complaints against HIV/AIDS stigma and discrimination under the HIV and AIDS (prevention and Control) Act are yet to be made.

Let alone its inoperative, the HIV and AIDS (prevention and Control) Act itself contains some provisions inconsistent with the spirit of eliminating stigma and discriminate towards PLWHIVA. For instance, the provision of section 47 which incriminates deliberate transmission of HIV to another person was complained by many respondents (55%) that it is difficult to prove that the accused deliberately infected another person and therefore the same can maliciously be used to harass PLWHIV. There are yet other provisions of the HIV and AIDS (prevention and Control) Act which by implication allow compulsory HIV testing. For instance, section 15(5) requires pregnant women and their partners to be counseled and be tested for HIV/AIDS. This has been the case in all the councils visited. Despite the fact that this seemed to be not much disturbing to many PLWHIVA, a few were not happy with this

especially the requirement of compulsory testing of the man responsible for the pregnancy.

Besides compulsory testing of pregnant women and their partners, Interviews with PLWHIVA in Makambako-Njombe, Hai District-Kilimanjaro, Temeke-Dar Es salaam and Shinyanga also revealed mandatory testing policies in some workplaces especially those dealing with food selling, bars and large hotels. This makes some of the PLWHIVA afraid to open food-vending businesses or apply for a job in places where they know they will be forced to test HIV in fear of stigmatisation and discrimination if their HIV status is known. One of the respondents in Makambako-Njombe revealed this-

*There are places where it is mandatory to get tested for HIV to find a job, especially in large hotels. I once got a job in Dubai and was told I must test for HIV; I asked myself, should I disclose my HIV status? I felt it is better to get away with it and I called the person who found me the job and told him that I got a job somewhere else, while in fact, I had none.<sup>102</sup>*

The quoted interview response above shows not only breach of the law which requires HIV testing to be voluntary, but also shows how PLWHIVA are indirectly denied the right employment and the right to choose work to do as provided under the UDHR, the ICESCR and the ACHPR.<sup>103</sup>

The second challenge as noted in this section above is low community awareness which influences their wrong perception towards PLWHIV/AIDS and the perception the PLWHIVA themselves towards the

<sup>102</sup> In-depth interviews conducted with PLWHIV/AIDS in Njombe Region in January, 2022.

<sup>103</sup> UDHR (No.8 above) Art 23; the ICESCR (No.10 above) Art 6&7; and the ACHPR (No.14 above) Art12.

community. As already noted under item 3 above, Interviews with key respondents in the four councils visited revealed that many people (83.3%) believe that if they associate with PLWHIV/AIDS such as eating together, sitting near to them or coming into contact with them or sharing things like clothes and utensils they will be infected. This wrong perception is caused by low level community awareness caused by insufficient education provided to the people. Notwithstanding perception being external to law, the same would, as I have already said under item 3 above, have been changed if the Government fulfilled its obligation to provide effective public education program and dissemination of HIV/AIDS information as required by sections 7, 8 and 9 of the HIV and AIDS (Prevention and Control) Act.

Community understanding is even worse on the law and its enforcement. For instance, only in Hai District that PLWHIVA were knowledgeable that in event of HIV/AIDS stigmatization and discrimination they would go to report to: police- gender desk; council social welfare officers and community development officers; and to the court if given guidance at the lower levels. In the rest three councils, interviewed PLWHIVA could not tell how and to whom in event of stigmatization and discrimination they would go about. This justifies the reasons why the author could not come across even a single judicial decision relating to HIV/AIDS stigma and discrimination in Tanzania. Perhaps, it is because of lack of understanding of the entire justice system or the lack of a proper justice system to counter HIV/AIDS stigma and discrimination in Tanzania.

Interviews with health facilities staff further revealed that lack of adequate community awareness on how to address HIV/AIDS stigma and discrimination is also contributed by difficulties to reach citizens due to being constrained by income-earning activities

and shortage of health care staff, especially in CTC units. This was said by most of the CTC workers (83%) in the visited councils. Shortage of health care staff leads to partial implementation of some of the tasks, particularly, the provision of HIV education and counseling package.

Counseling becomes less effective than required due to shortage of time because the same person is required to serve many people at a time. Partial or ineffective counseling contributes to increased self-stigma and discrimination. At times, partially counseled PLWHIVA blame themselves. They create wrong perception towards themselves that they are worthless, misogynistic and ashamed. This makes them even hide or distance themselves from the society. Nearly all the PLWHIVA interviewed (80%) said that they consider themselves worthless in the society and they are not free to reveal their condition as they do not know who will keep their secrets.

## **7.0 What should be done to End HIV/AIDS Stigma and Discrimination?**

Interviewed respondents were of the view that in order to eliminate HIV/AIDS Stigma and Discrimination, the government should formulate specific and workable anti-HIV/AIDS stigma and discrimination policies. They also opined for the government to enact strict laws against perpetrators of stigma and discrimination towards PLWHIVA and to effectively implement the existing laws and policies. More education should be provided to the entire community about the effects of stigma and discrimination. This should be a cross-cutting issue rather than leaving it to healthcare providers as it is the case at present. Currently, healthcare providers provide education to PLWHIVA only at the CTC or to close associates of the PLWHIVA. The responsible Ministry should not only make the required regulations to operationalize the HIV and AIDS (Prevention and Control)

Act, but also should implement the duty to provide public education and awareness on HIV/AIDS and prevention of HIV/AIDS stigma and discrimination as required by section 7,8 and 9 of the HIV and AIDS (Prevention and Control) Act.

Interviewees further recommended improvements to provision of health care facilities for PLWHIVA. Specifically, most of the PLWHIVA were not happy with CTCs and the way they are located. They claimed that setting specific centers where counselling and treatments are provided is itself a discrimination and stigmatization. When someone is seen in that area, the community already concludes that such person is HIV infection and starts spreading information in the streets. Witnessing this, one woman in Hai district said, *“If someone finds you sitting there at CTC, then you will find all over the street you have been labeled HIV infected. This building is scary; if you are being seen thereat even if you are not HIV infected, they perceive you as already infected.”*<sup>104</sup>

This quoted interview response suggests that even though the idea of having CTC isolated is to ease the provision of health care services and counseling, the way such centers are located, by implication signifies stigma and discrimination towards PLWHIVA.

## 8.0 Conclusion

This article examined the law dealing with HIV/AIDS Stigma and Discrimination in Tanzania with the view to finding out why stigma and discrimination against PLWHIVA has remained to be a notable feature in Tanzania, notwithstanding the law and other national efforts to counter the same. The article employed qualitative data collected through documentary review and in-depth interviews conducted in four selected councils in Mainland Tanzania. It has been noted in this article that HIV/AIDS stigma and discrimination has a bit decreased in

<sup>104</sup> In-depth interviews conducted with PLWHIV/AIDS in Hai-Kilimanjaro Region in January, 2022.

Tanzania because of some measures taken by the government in provision of education and prevention and protective gears especially in health care facilities. It has also been noted that the government and NGOs have taken commendable efforts to suppress HIV/AIDS transmission and HIV/AIDS stigma and discrimination. Apart from creation of community awareness, the government established the TACAIDS and enacted the HIV and AIDS (Prevention and Control) Act and other legislation which condemn stigma and discrimination towards PLWHIVA. Nonetheless, the rights of PLWHIVA are yet to be legally enforceable because of partly weakness in the law and its enforcement and partly because of lack of community awareness on the law and its enforcement. The article opines that the government should formulate viable anti-HIV/AIDS stigma and discrimination policies, enact strict laws against perpetrators of stigma and discrimination, implement the existing law and policies, provide more community awareness, and improve the system of providing health care facilities to PLWHIVA in Tanzania.