

## **Draft Arab Model Law On Rights and Duties of People Living With HIV/AIDS<sup>1</sup>**

### **Preamble:**

HIV/AIDS is a transmissible disease likely to affect any human being. It represents both a social and health issue, thus the response should be multisectoral and include multi-disciplinary scientific and professional approaches.

Reaffirming the fundamental Human Rights principles embodied in the International instruments, the Human Rights Arab charter and the International labour agreements as a basis for all legislative measures, policies and action plans, and other approved prevention programs targeting people infected or affected by HIV and the protection of their rights, especially the right to not suffer any discrimination, the right to life, the right to privacy, the right to access information, the right to freedom of opinion and these opinions to be duly recognized, several organizations, including some United Nations agencies and the League of Arab States, agreed to reinforce their action in order to submit a law on the rights and duties of People Living With HIV/AIDS (PLWHAs).

The present law deals with public health, the protection of people infected and affected by HIV/AIDS, access to necessary services, judicial and juridical assistance for women, children, youth and other vulnerable groups being located on a State territory and under its protection.

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<sup>1</sup> This document is a translation from an Arabic source and is intended only as a general interpretation of the original source, and not as a substitute for the original source. Any discrepancies or differences created in translations are not binding and have no legal effect for compliance or enforcement purposes.

**Article 1:**

The provisions of this law shall apply to PLWHAs and those affected by it, including children.

**Article 2:**

The state shall award the official entities responsible for public health the powers, authorities and financial capabilities needed to guarantee the delivery of support, treatment and care to PLWHAs, and to disseminate information and awareness, conducting voluntary testing, providing counselling, receiving health services related to reproductive health, sexually transmitted and AIDS related opportunistic diseases, and conducting research and regulating medical ethics.

**Article 3:**

The competent authorities shall determine the freedom from AIDS and other contaminants of blood, tissues and organs donated for medical purposes.

**Article 4:**

HIV testing shall be voluntary and confidential and individuals requesting to be tested shall have the option of not revealing their identities, and [testing] shall be preceded and followed by counselling sessions.

**Article 5:**

PLWHAs shall inform their spouses and any other person who would, by reason of their relationship, contract the virus. Upon the physician's knowledge that the afflicted person is withholding his affliction from other individuals involved in such a relationship, then the physician shall relay said information.

Violating the provisions of this article shall be penalized according to Article (24) of this law.

**Article 6:**

Physicians, their aids, and health sector workers shall be entitled to sufficient guarantees and safeguards protecting them from the risk of contracting the virus during or because of their work, and should they contract the virus as a result thereof, they shall be entitled to seek compensation. (The MOH shall have the discretion to determine other groups that would benefit from this article by virtue of their work).

**Article 7:**

Relevant parties shall be committed to providing the minimum training for health sector workers on professional ethics and the rights of PLWHAs.

**Article 8:**

The state shall guarantee taking the measures required to guarantee that all PLWHAs receive antiretroviral medications, this shall include the local production of antiretroviral medications and securing the licensing required thereof, or parallel imports, and importing the basic pharmaceutical compounds and any other measures the state deems necessary to guarantee PLWHAs receiving the medication.

**Article 9:**

HIV positive individuals shall not be subjected to discrimination, slander, or infringement upon their dignity, or to undermining their rights or exploitation due to said condition.

Violators of this article shall be subject to the penalty of (penalty is left to national legislators).

**Article 10:**

PLWHAs and those affected by it shall be entitled to receiving regular medical care and treatment at any public health centre.

**Article 11:**

The state shall guarantee providing the required legal counselling and judiciary assistance to PLWHAs in case of their financial need should they need to initiate legal action due to their affliction.

**Article 12:**

PLWHAs, especially children, shall be entitled to education and obtaining information, counselling and care, and discrimination against them at any educational institution shall be prohibited.

**Article 13:**

Notwithstanding the provisions of the law with regards to specific jobs, no worker may be subjected to HIV testing as a condition to employment, promotion at work or receiving employment benefits. Employees afflicted by the virus may not be deprived of their rights and dues as long as he is capable of performing his work. In case the employee is unable to perform his job, based on a valid medical report, he shall be entitled to be transferred to another suitable position.

**Article 14:**

A worker may not be dismissed by reason of contracting the virus; any violation of this article shall be penalized by (penalty left to national legislators).

**Article 15:**

It shall be prohibited to impose special conditions or limitations on PLWHAs in the fields of insurance, pensions and social security. This shall also apply to public and private institutions.

**Article 16:**

PLWHAs shall be entitled to housing, and discrimination against them by reason of their condition shall be prohibited.

**Article 17:**

The relevant parties shall be committed to guaranteeing the confidentiality of PLWHAs' personal information. They shall not be used in any way or form in a correspondence or contact that contradicts with the personal and confidential nature of said information. Violators of this article shall be penalized with (penalty left to national legislator)

**Article 18:**

Health authorities and medical workers and their aids shall be responsible, in using statistical and laboratory data, for preserving the rules of confidentiality, privacy and respect of the personal lives of PLWHAs and those affected by it.

It shall also be prohibited to publish the personal information related to the health condition of PLWHAs without obtaining the approval of authorized medical parties, and after the consent of relevant individuals; violations of this article shall be penalized (penalty left to national legislator).

**Article 19:**

PLWHAs shall be entitled to preserve the confidentiality and privacy of trials to which they are party.

**Article 20:** The state shall guarantee providing reproductive health care services to families, including PLWHAs, and shall guarantee expecting women's right to antiretroviral drugs.

In case the life of the foetus is at risk, as proven by a valid medical report, the pregnant woman living with HIV/AIDS may voluntarily terminate the pregnancy. (Taking into consideration the amendment of any law in contradiction with this provision).

When a partner in a couple is afflicted with the virus, the decision of having children shall be subject to both partner' consent.

**Article 21:**

The state shall be committed to organizing awareness raising programs and campaigns to stress the equal right of both sexes to protection from the virus, to combating violence against women and girls, including female genital mutilation (female circumcision), early marriage, and their protection from customs and traditions that are unjust to women.

**Article 22:**

The state shall be committed to observing and protecting the basic rights of children living with HIV/AIDS and those affected by AIDS, particularly their right to awareness and obtaining information, and to protecting them from all forms of violence and practices that would put them at risk of contracting the virus.

**Article 23:**

Premeditated transmission of HIV is a crime punishable by law (penalty left to national legislator).

**Article 24:**

Upon their knowledge of their affliction, PLWHAs shall be keen to take the precautionary safeguards that would curb its transmission to others, including their family members. They shall be responsible before entering marriage to inform their future life partner of their condition. Violators of these two provisions shall be punished with (penalty left to national legislators), and the penalty shall be doubled if the virus is transmitted to others due to this violation.

**Article 25:**

The state shall be committed to an expeditious reform of prisons, detention and arrest facilities, and correctional and rehabilitation centres, and to protecting the human rights of prisoners, detained and arrested individuals without discrimination by reason of their affliction with the virus. And the state shall guarantee the right to equal treatment without discriminated of detained and arrested prisoners living with HIV/AIDS.

**Article 26:**

The state shall be committed to making available at prisons, arrest and detention facilities the means of protection against the risk of contracting the virus.

**Article 27:**

In taking consideration of their condition, the relevant authorities may release prisoners or detainees living with HIV/AIDS.

**Article 28:**

Antiretroviral drugs, medications of diseases resulting from HIV/AIDS, means and tools of protection such as male condoms, and all that has a proven effectiveness against the virus shall be exempt from taxes and customs duties.

**Article 29:**

All texts and provisions in contradiction with this law shall be deemed null and void.