

THE RIGHT TO WORK FOR HIV PATIENT IN TUNISIAN LEGISLATION

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ABSTRACT: *With this study, we want to support the idea that even in the absence of a proper legal system Tunisian AIDS that would govern all the problems posed by this disease, the interpretation of existing texts can lead to adequate solutions to the problem of AIDS. This not to mention the fact that in a particular case, we have a special law (the 1992 Law on communicable diseases). However, the introduction of new AIDS-specific laws have the advantage of finding solutions to balance on the one hand, between the rights of HIV positive and AIDS patients by guaranteeing the protection of human rights, respect for their lives, their liberties and avoid discriminatory action against and stigmatization against them regarding the provision of services and employment, and also the obligation to ensure the same time protection Company against the spread of this epidemic.*

INTRODUCTION

Our aim in this study is to focus on the rights of HIV Tunisian patients. We are, especially, interested in the problems that may incorporate stigmatism, the right to work as one of the fundamental human rights. In Tunisia and even in other compared legislations, there are different dispute resolution routes depending on whether it is a violation of a statute, an individual contract or a collective agreement. In 1981, a previously unknown disease was discovered in the United States: it is a severe immunodeficiency with thirty cases identified by the "Center for Disease Control" and in young homosexual men. A similar case is also found in France. At the end of that year, the disease had a name: English AIDS (Acquired Immuno-Deficiency Syndrome) in French AIDS (Acquired Immune Deficiency Syndrome). In 1983, the virus responsible is identified by the team of Luc Montagnier at the Pasteur Institute (Paris). In Eastern Europe and Central Asia, we have seen the appearance of plague in the early 1990s. AIDS is now present in the world and produces a global pandemic steadily increasing. We are witnessing a real legislative contagion spread with new laws on this disease provokes debate and increasing controversy. Indeed, the model laws can be a useful element in the fight against HIV / AIDS, provided it is securely anchored in the principles of human rights. However, an eminent problem is the stigma and discrimination that have fueled the spread of HIV and greatly exacerbated the negative impact of the epidemic. Stigma and discrimination associated with HIV

continue to occur in all countries and in all regions of the world and are major obstacles to the prevention of new infections, the mitigation of the impact and the provision of care, support and adequate treatment. Or the right to health is a fundamental right of the human person and the right, as an instrument of social regulation or *corpus juris*, has the vocation to be positioned in the foreground under the determinations of the struggle against this epidemic. In the same vein human rights are an essential component in the fight against this epidemic. "The law is fundamentally a matter of local nature. It grows in a given by and for the community that lives there geographical space. The law, in its normative aspect, therefore, is not subject to export, as can the health and even the culture. Indeed, human rights violations exacerbate the epidemic because they are more vulnerable to possible infection people, first. Moreover, this infection often leads to human rights abuses. People living with AIDS may be subject to various forms of discrimination, including harassment, arbitrary arrest and torture. this study is part of the right initiative to link health and HIV / AIDS and human rights. This study is the link between HIV / AIDS and human rights a reality. In the time that AIDS is an economic threat to the multiple components affecting public and private sectors productive because it leaves behind families destroyed, a work force reduced and therefore the prospects for paralyzed or severely hampered development. Thus, the interest of the subject lays in the development of a rich understanding of health needs among the socially marginalized, such as people who use drugs groups, sex workers, Roma, persons living with HIV / AIDS and those in palliative care. These people did not claim that health care. They wanted the services of defense against violence and discrimination, stronger laws to protect their rights as patients, and a more developed human rights to defend their interests before the police training, care providers health authorities and other stakeholders. This need was not crying in any field other than HIV / AIDS. Besides this component, it is indeed important to protect people and ensure respect for their lives, their social integration and individual liberties, another interest lies in the fact to identify the responsibility of HIV-positive people to ensure at the same time protecting the company against the extension of the epidemic. It, therefore, seems essential to define the problem of AIDS in relation to the law.

PROBLEMATIC AND METHODOLOGY

To deal with such problems should health policy in this field, based on respect of all civil, cultural, political, economic and social. Similarly, it must be based on respect for the right to development in accordance with international standards and principles relating to human standards. Therefore, governments are required to be concerned not only the medical needs of patients infected but also legal, social and ethical issues that are related to the spread of the virus and, in particular, the protection of confidential patient information. This role reflects, in fact, an emerging trend in favor of what might be called the "juridification of the fight against HIV / AIDS." It is in this perspective that we can cite the Declaration of Commitment, adopted in June 2001 at the Special Session of the General Assembly on HIV / AIDS, which emphasizes the global consensus on the need to fight against stigma and discrimination

associated with AIDS. The Declaration states that the fight against stigma and discrimination is a prerequisite to effective prevention and care, and reaffirms that discrimination based on HIV status of a person is a violation of rights man. Under Tunisian law, although research and analysis of legislation on HIV / AIDS have been conducted, supported in particular by the United Nations Program for Development, there is still no legal study for the people affected by HIV / AIDS, including people living with HIV. This study is intended to clarify the responsibility of the company to the sick with AIDS and responsibility thereof to society. Health and biological destruction of this disease is fueled by a wide range of violations of human rights, including sexual violence and coercion against women and girls, the stigmatization of homosexuals, drug addicts and abuse against prostitutes and violations of the rights of adolescents to information about the transmission of the disease. This protection would interest all forms of discrimination in all areas of life, ranging from access to outpatient and inpatient cares that access to the labor market and services. The specific legal provisions, in accordance with international recommendations that promote approaches based on human rights are being observed in our legislation on the disease of HIV / AIDS. Therefore, it is legitimate to wonder about the regulation of the AIDS disease in Tunisian law by posing the following question: To what extent Tunisian law is sufficient to protect and penalize people living with HIV?

Then, we will discuss: The rights to work for the patients with HIV / AIDS in the Tunisian positive law.

DISCUSSION

The right to work in the Tunisian law is illustrated by the article 52 (14 March 1989) was issued to protect people with special needs (PWSNs) and promotion of their rights such as the right to work and the right of all the medical care they need. Regarding their right to work, the 1989 Act establishes two principles:

1. PWSNs refuse work either in the public or private sector, is prohibited as long as the applicant meets the qualifications for the position.
2. Both private and public institutions that employ 100 or more people must spend 1% of their work centers for PWSNs that cardholders check their status, and the Ministry of Social Affairs must be informed of each impact recruitment PWSNs.

These provisions are consistent with the International Labour Convention No. 159 of professional etiquette and professional benefit PWSNs. A national program for the vocational rehabilitation of people with limited physical movement was designed, involving the development of special education centers; rehabilitation companies that are expected to reach more than 180 centers, and the creation of resources for which PWSNs are able to use. HIV infection is not a cause of inability to work (except in exceptional cases) in this context that the employer refuses an employee found medically unfit on the grounds of HIV status or lifestyle is punishable discrimination. And indeed according to art.6 of the Tunisian Constitution: "All citizens have the same rights ... and are equal before the law "This means that every citizen can have access to employment whether or not a citizen sick from the time he is able to exercise its function. The occupational

physician is bound by medical confidentiality in accordance with Article 254 of the CP and article 7 of the Code of Medical Ethics, he did not disclose that the patient is suffering from AIDS or not, it only has jurisdiction to assess the patient's ability to perform his job. In addition, the employee may encounter difficulties seropositive running of his employment contract when it is necessary to be absent periodically. We will focus initially on the right of HIV positive employment in the private sector (paragraph 1) and a second time to his right to employment in the public sector (paragraph 2).

1: The right to work in the private sector

In terms of contracts, in this case the arbitration agreement, the ability of persons of private law differs from that of subjects of public law, each of which must be treated separately. We examine below the questionnaire hired and hired medical visit. For the questionnaire employed, we remark that today, access to employment is first and foremost an interview that a questionnaire is hired. It should include only questions directly related and necessary to the employment sought. It may relate to the applicant's life. Indeed, according to Art 9 of the Tunisian Constitution "... data protection. Indeed employer does not have to learn about the health status of a candidate beyond what is necessary directly with the occupation of the position. Therefore, there is no obligation to answer questions relating to HIV. Omissions and inaccuracies relating to items not decisive for hiring are inconsequential. Under French law, the law of 12 July 1990 on the protection of individuals against discrimination because of their health status or disability punished by imprisonment or a fine and any refusal to hire based on health condition or disability, except in cases of inability to use medically recognized. Regarding crews are concerned, there is no need for testing in general, but the tests can be performed on the basis of clinical indication (see the order of the definition of health conditions Required crews and conditions to be met by medical institutions of the stage crew medical exams, Art 8.1.2.). When the positive results of the sexually transmitted disease (including the HIV / AIDS) tests are confirmed, a rigorous testing process and additional procedures should begin in order to enable individuals to continue working as long as their competence exercise their functions with prescribed standards is not compromised. Treatment should be assessed by a specialist acceptable to the department, and must be adapted to individual and all individuals regarding side effects. The testing regime is acceptable described in Article 2 "Appendix to Articles 3.2 (i), 3.2.5, 8.1. Requirement and EMCR (ATC) 18" (at the end of Appendix 4). Order Tunisia was developed based on the requirements of Class 3 Medical Certification of European air traffic controllers of the European Organisation for the Safety of Air Navigation and in accordance with the Manual of Civil Aviation Medicine, which refers to rigorous testing of three months and six months, which is not include HIV testing, but medical examinations (including neurological tests, cognitive tests, and so on.) after the HIV status of the person was positively. It would be good if the Ordinance explicitly stated that HIV is not a reason for a person not to find a job if he / she is able to accomplish tasks in spite of his / her medical condition. The mandatory HIV testing based on special orders (the order of the

definition of health conditions required for maritime and inland ship crew boat navigation, the Ordinance on measures to be taken in the definition of health conditions general and specific requirements for protective security guards and private security services; Ordinance standards and means of defining mental health, physical ability and health of miners) is performed on people who are employed on maritime and inland waterway vessels, or as security guards or demining experts. Tunisian law, the medical examination is not required to determine the ability of a person to get a job except in certain activities in the public sector. Moreover, it is important to specify in accordance with article 61 of the Labor Code that: "Children under 18 years cannot be employed in all activities after a thorough medical examination to justify their ability to perform the work they will be charged. This review includes appropriate clinical, laboratory and x-ray". This article excluded submitting to a medical examination prior to employment except for certain state jobs for children under the age of 18. It is important to note that the medical examination has several goals: First ascertain whether the employee is not suffering from a contagious disease. In normal work, HIV can be dangerous for other workers, which is why HIV testing is not warranted. Then ensure that the employee is medically fit for the position of the proposed work. It should also be recalled that the mandatory testing in such cases is contrary to the recommendations of UNAIDS and WHO. The employer can not in any way impose the occupational health screening on the individual employee. The occupational physician is bound by medical secrecy and can not reveal the reasons for its decision. The sheet employability given to the employee and the employer only mentions that the ability or inability, total or partial employee. Then when we proceed to discuss the trial period, we remark that the accordance with Article 6, paragraph 3 of the Labor Code, which was added by Law N°: 96-62 of 15 July 1996: "The workers hired through employment contracts of indefinite duration are subject regarding the period of testing and confirmation to legal or contractual provisions that apply to them. During this period the employee's situation is particularly fragile as the employer can terminate the engagement without having to provide evidence of real and serious grounds for dismissal. During this period, elements "New" coming to the knowledge of the employer (health, privacy) could possibly lead it to refuse final commitment. However, sick leave during this period is not a cause of breakage. It only causes the suspension of the trial period may be extended by the time the sick. However, the employer may notify the employee on sick leave, the decision to stop the trial on the ground that - is not conclusive. Turning now to discuss the Ability to work, we state that HIV-positive employees are able to perform their professional duties. When symptoms occur, the impact on the ability workstation varies with individuals and work requirements of the job. It is the occupational physician to determine whether an employee is still able to continue his job. In cases where the occupational physician finds the inability of an employee to his job, he should not tell the employer if the source of information against the holding of the original position. It may propose measures against individual mutation, transformation stations, justified by the state of health of the worker and if he could not apply, explain why. According to Art 160 of the Labor Code is the business advisory committee is consulted for outplacement. In case the reclassification of an employee, unfit to his original position or adaptation of his job would prove

objectively impossible, the employment contract can be broken. It will be a dismissal. Then the employee will receive compensation. Art 23 of the Labor Code states that: "The wrongful termination of the employment contract by one of the parties has the right to damages." Moreover, article 23a (added by the Act of February 21, 1994) states that "in cases of unfair dismissal, the injury giving rise to damages which varies between the salary of one month and two months for the each year of service in the company without these damages do not exceed in any case the salary of three years." This seems consistent with the trends of international legislation. Recently, APEC adopted extensive guidelines on HIV in the workplace. The Asian Pacific Economic Cooperation (APEC), which was held in Sydney, Australia, 21 leaders gathered supported guidelines to cast a wide net on HIV in the workplace, for springs APEC. 4 The guidelines are based on two publications of the International Labor Organization (ILO): ILO code of practice on HIV / AIDS and the world of work and the manual entitled Implementation of the ILO Code of Practice on HIV / AIDS and the world of work. The guidelines were adopted also deal with issues that are not addressed in the Code of Practice, such as gender, child workers, migrants and mobile populations. The guidelines are addressed to governments of APEC members, employers in the public and private sectors, business associations, workers, trade unions and other labor groups, organizations of people living with HIV and than any other group with responsibilities and activities relevant to HIV and AIDS in the workplace. The guidelines are an example of the approach known as "soft law" approach to development politiques.⁵ The development of these guidelines was supported by funding from Health Canada during the period when the latter chaired the Working Group APEC health. This working group will work closely with organizations such as the ILO and the Asia Pacific Business Coalition on AIDS, to ensure that the guidelines are disseminated and promoted among APEC member economies. In some conditions, the disease causes suspension of the employment contract. This occurs when it is likened to a "disorder in the business," possible cause of dismissal insofar as it has no impact on the execution of the contract. The disease does not break the contract, but suspends execution. This is what was stated by art 20 of the Labor Code which states: "The disease suspends the contract. It is a ground breaking if it is sufficiently severe or prolonged and if the needs of the business require the employer to replace the sick employee". The employee must inform the employer as soon as possible and a medical certificate must be sent to him (usually within 48 hours). At the French law, when the absence has lasted at least 21 days, a medical recovery is right. It takes place during the resumption of work and at the latest within eight days which follow the recovery. The employee may request to take this tour prior to his return to work in order to facilitate his rehabilitation or adaptation of his job in his new physical state. Art 8 of the Tunisian Labor Code states that: "The absence or abandonment of the position of the work in a way, obvious, unjustified and without prior approval of the employer or his representative constitutes real and serious to justify dismissal'. Therefore, constitute misconduct, lack of timely information and the employer does not have sent him a certificate of work stoppage. Refusal to undergo a medical examination may be cause for dismissal. However it is common that the dismissal is unfair when it is justified by a legitimate reason, this is what was said by the Tunisian case on several occasions. In, January 26, 1995, the Court of Cassation ruled that Tunisia

has been unfairly dismissed in a case where a director of external relations has been dismissed without just cause although he was absent from work since April 22, 1991, due to the working conditions which allowed him to continue over the exercise of its functions under favorable conditions and also the great delay in the payment of wages became quite common. The Tunisian Court of Cassation held that this behavior allows the employee to leave work and consider themselves dismissed. Therefore, it was considered that there was wrongful termination of the employment contract by the employer and that the dismissal was unjustified. But, the unilateral resolution of the of the contract is illegal. The fact to proceed to terminate a contract on the basis that an employee is HIV positive. In labor law, contracts may be terminated if an employee makes a mistake or unacceptable professional misconduct (Article 14). HIV infection is clearly not affected by such a provision, unless the disease leads to imperfections in the performance of work or professional behavior affecting the productivity of the facility (decrease in the volume or quality of production and the frequency of absenteeism at work.) Dismissal cases that occurred almost no one ever because of AIDS, at least explicitly. If the employer wishes to dismiss an employee affected by the disease, will use another excuse. However, dismissal is possible in case of serious misconduct. Article 14-4 of the Labor Code gave a list of serious misconduct justifying dismissal. Moreover, an employer may dismiss an employee on sick two essential conditions: the first is: If the work stoppage continues beyond the period during which the collective agreement prohibits dismissal. Then, the second: the employer must replace the absent employee due to the disruption of service. On the other hand, an employer may dismiss an employee whose absences are frequent and are likely to cause disruption to the smooth running of the company. Thus dismissal without just cause is considered abusive. The health of employees should not cause differentiation procedures - discipline and termination of the contract should be imposed for serious misconduct or unacceptable performance. However, a positive aspect of the Tunisian law is that employee's long-term illnesses that prevent them from working are given considerable additional leave to sick leave standard (Article 14, Labor code). This leave may be as much as 12 months, including two months are fully paid and are 10 months half-pay (Article 42). This can be extended to 5 years including 3 years are fully paid and 2 years on half-pay, as long as the employee has a medical certificate to verify the need for this amount of leave. Four types of diseases are eligible for leave under 5: tuberculosis, cancer, psychological problems and heart disease. Unfortunately, HIV is not included in this installment, and PHAs are simply considered unable to work for health reasons "(Article 68 and following in the general system of basic public employees profession). PLWHA and are provided without pay for leave taken due to long term illness - they only have the right to social security coverage provided by the administration to which they belong (Article 69 of Public Law Professional). Infection with HIV can reduce employee earning potential and social status, it is essential that HIV can be added to the list of diseases that allow the patient to long-term sick leave. In this context, the Labor Tribunal in Bobigny in France condemned a company that had refused to take off work after an employee with AIDS "dismissal without just cause" and "wrongful termination of contract of employment "(2). The Paris Court of Appeal upheld that decision in April 1991, and has increased the

amount of damages related damage (from 50000-70000 F) (3). Court found that the employer, while maintaining salary the employee had not allowed returning to a job equivalent to his position despite a medical certificate. The judges note that the employer "giving precedence his personal opinion on the legally binding decision of the doctor, was based on the subjective and the almost obsessive fear of a disease that justified, in his eyes, a measure isolation or even removal professional". Another similar decision was taken by the Labor Court of Paris in its judgment of 23 July 1990 (4). In this case, it was the dismissal of a commis chef on the grounds of HIV status: the dismissal letter referred explicitly to HIV as the cause of the employer's decision, despite the opinion of the physician labor declared the employee fit for its purpose. The Board therefore held that the dismissal was without just cause. It has not been appealed this decision. In a judgment of the Labor Court March 15, 1989 (1), we use the important principles of labor law. First, the employer cannot use the elements of life outside the employee unrelated to the nature of the job or some operating requirements of the business. Then, in labor relations, there is no reason to treat AIDS differently from other infections. Finally, there is no legitimate reason for dismissal related to that skill, the conduct of the employee or based on the operational requirements of the company or other cases provided by law, such disorder "characterized in business "ie, the disagreement between employees or loss of confidence.

2: The right to work in the public sector

The International Labor Convention No.12 imposes a duty of the state implementation of an active policy to encourage employment in a manner that ensures productivity, freedom of inquiry, and the implementation this policy as a policy objective, Tunisia has ratified this Convention in its review of the labor legislation (30 April 1966). However, articles resulting from the ratification have not addressed the issue of discrimination in the workplace. We examine below the conditions of access to employment in the public sector and also the situation with AIDS in the context of the exercise of its functions. First, Tunisian law, there is no routine screening for candidates for public office. As well as HIV is not a valid cause for refusal to recruit. Indeed, according to Article 1 of Law No. 22-71 of 27 July 1992 relating to communicable diseases, "No one can. Be discriminated against in connection with the prevention or treatment of a communicable disease". In fact there is no regulation at the Tunisian law which implies the exclusion of AIDS public service. The preamble to the Constitution of Tunisia (1 June 1959) stated that "the republican system is the best way to take care of citizens' right to work." Because of international commitments, Article 15 of the Labor Law was revised 5 June 1993, adding the statement that "there should be no discrimination between men and women in the implementation of the provisions of labor law and its laws applied ". art 6 of the Constitution states" All citizens have the same rights and the same duties. They are equal before the law. ". Therefore, there is no difference between a healthy citizen and a citizen sick from the moment it was declared by the occupational physician as fit to perform a public service. However it should be noted that before being hired, job seekers must provide a medical certificate to prove

their physical and mental capacity to do the work (Article 8 of the Law on Public Service, December 12, 1983 and Articles 61 and 153 of the Labor Code). This certificate is an important determinant of whether or not the applicant will be hired. It can be submitted either by a public or a private doctor. The review aims both to test the applicant's ability to do the job they have sought, and also to protect against occupational hazards that could endanger their health (Article 153 and Article 62 of the Code of work, July 15, 1996). The question remains whether or not it is legal to force job seekers to an HIV test. Now nothing in the law prevents the employer to do this, but this is generally not applied. To protect the rights of employees, an article is necessary that explicitly prohibits employers from requesting such reviews. This article has been included in the notifications of the European Council (15 December 1988). Under French law, we can confirm that "The current regulations do not exclude the public, if they are asymptomatic carriers of the AIDS virus It is nevertheless approved physicians to determine whether the health of the applicant is not incompatible with the exercise of the function postulated ". In the same context and contrary to Tunisian law, two circulars of the Ministry of Public Service and the Ministry of Health of 6 July 1984 (2) and 5 March 1990 (3), have clarified employment in the public people with AIDS Virus. We must distinguish between HIV status and the clinical condition of the people. Under French law the AIDS screening is not routine and has no justification, it is not intended by texts that define physical fitness required to have the status of officials. (4) It is important to note that the same is true in Tunisian law in cases where access to public demands before hiring a medical such example: the exercise of a function under the cash National Social Security or in access to employment in the customs. This fact and when the job applicant has a health condition allowing it to perform the function chosen nothing, would justify the refusal to hire because he suffers from AIDS. Or asymptomatic healthy carriers are quite able to perform their professional tasks in conditions, routine work from the moment they offer no risk of contamination for people located around them. Alone cannot justify the denial of admission to the examination, hiring or tenure for those whose immune system is weakened, the situation varies among individuals. During the clinical examination by a doctor approved, the presence of signs suggestive of HIV infection can lead to propose a test. It cannot be carried out without consent. Doctors and medical committees dice when required to give their opinion on the compatibility of the health status of the candidate with the position applied for. In this context it is up to the administration to decide on the legal status of the applicant. Those who develop serious illnesses can work during periods of remission from the treatment. In fact, when the state of health of the person allows, maintenance professional activity can be beneficial for their psychological state and must be sought to the extent compatible with the proper functioning of the service. When employed, these patients were protected by the Law of 5 June 1993, was revised February 21, 1994 to improve provisions for the settlement of individual labor disputes, and July 15, 1996, to bring new forms of labor contracts and improve environments. In the present state of things, the Tunisian case did not address the situation of AIDS exercising a public function. Against by French law, several cases have clarified the rules for employees of the public service. People with already some signs of blown AIDS were recognized as suitable to perform their jobs and were titularized. The organization of their working

conditions is even possible. furthermore, in the context of tenure must distinguish between fixed-term contracts which expire on the date specified in the contract, and permanent contracts whose duration was not specified in the contract and in which tenure operates twelve months from the date or the contract was concluded, and finally the learning contract and for which there is tenure after 2 years. In addition to the aforementioned laws, the law of public service (from December 12, 1983) deals with the right to non-discrimination between employees of different religion, political persuasion or gender ... Discrimination between these groups is prohibited on issues of promotion, tenure, transfer of staff and disciplinary boards. In the French jurisprudence, and for tenure in the public service, a teacher trainee Hauts-de-Seine had seen in 1987, his appointment refused because of repeated sick. The county medical committee stated: "ability to use its current position to review in six months. Tenure to be considered later". The student has made an appeal to the higher medical committee who waited more than six months to deliver its verdict. The teacher, who was unanimously supported by the parents of his students and his colleagues, was finally declared fit. For the development of working conditions and sick leave, we observe that the regarding staff and trainees of the Tunisian government, the texts relating to long-term sick leave and long-term planning is nothing special about AIDS But leave scheme in the public is considered quite suitable for the particular situation of officials with AIDS, but it has been deemed necessary to mention this condition in the texts. Indeed Art 20 of the Labor Code states: "the disease suspends the employment contract does not constitute a ground breaking .. ' Art 145 as amended by Act No. 96-69 of 15 July 1996 of the Labor Code states that "the periods during which the contract work was suspended unless the contract has been terminated due to illness including ... are treated as periods of actual work ... ' Similarly, the provisions of the Public Service Law (12th December 1983) also addressed the maternity leave, the priority for PWSNs in certain occupations, and special conditions for child labor. They prohibit the recruitment of children under 16 years as well as the use of children on the night shift, in mines, or in any employment of labor which could hinder their growth or physical or psychological deprive them of their leisure time. Moreover, it is important to note that the long-term leave provisions vary in individual contracts of work function and also the circumstances. Under French law, art 29 of 14 March 1986, gives employees with AIDS accompanied by certain opportunistic infections such as tuberculosis, malignant diseases, the long-term leave. The extended sick leave is for a period of three years in France, with one year maintenance of full pay and two years with half the treatment. It may be renewed. Israel, seropositive surgeon is allowed to resume his duties. In January 2009, the Ministry of Health of Israel has decided that a surgeon with HIV could start practicing invasive surgical procedures provided that it maintains an undetectable viral load, following the procedures of infection control and door two pairs of surgical gloves during any surgery. The Department has also decided that any surgeon's patients do not have to be aware of his HIV status, given the extremely low risk of HIV transmission if the above conditions are met.

CONCLUSION

The promotion and protection of human rights are at the heart of the action against HIV / AIDS. Violate the rights of people living with HIV, or those affected by the epidemic is threatening not only their well-being, but life itself. The rights can play a crucial role in the global response to HIV / AIDS. People in Tunisia and around the world continue to be at risk of contracting HIV because of persistent violations of human rights. The lack of support for programs that protect and promote human rights is a failure of the AIDS response. It was noted in this context that the legislators and activists must redouble efforts to revive and human rights, treatment and prevention for all, including the most marginalized populations.

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