



## Discrimination and violations of human rights against patients living with HIV/Aids (PLWHA) in Indonesia

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### Abstract

HIV-AIDS is a disease that is stigmatized and has a societal impact on its victims. The impact frequently results in discrimination and has the potential to violate the human rights of HIV-positive individuals (PLWHA). Even if there is an abundance of misinformation, hoaxes, myths, and negative rumors concerning HIV/AIDS, this is what causes people to fear PLWHA. The author employs a descriptive qualitative methodology in this paper. This knowledge regarding HIV-AIDS must be possessed by a large number of individuals from all walks of life, and the government's role in providing education from a young age is essential in order to prevent the population from harboring unfavorable attitudes against PLWHA. The purpose of legal protection is to defend human rights that have been violated by others, and this protection is offered to the community so that they may enjoy all legal rights. The findings of this study indicate that this HIV/AIDS-related knowledge must be incorporated into legal counseling and aid for PLWHA in order for them to continue to live a good life and be cared for, and to avoid discrimination from the surrounding community.

**Keywords:** HIV-AIDS, discrimination of PLWHA, human rights protection

### Introduction

People living with HIV/AIDS (PLWHA) is a term used to refer to people who have been diagnosed or suspected of having HIV/AIDS. Acquired Immune Deficiency Syndrome (AIDS) is a collection of symptoms associated with diseases that impair the immune system; it is a disease caused by infection. The virus that causes AIDS, known as the human immunodeficiency virus (HIV), destroys the body's immune system. In a relatively short time, the number of sufferers of this disease has increased dramatically, and eventually this disease has become a global problem. This virus targets white blood cells (lymphocytes) in the human body and causes them to malfunction. Lymphocytes function in the body to help fight disease-causing bacteria that enter the body. Retroviruses are viruses capable of replicating within the host cell, introducing and integrating their own genetic material into the host cell. HIV is a member of this virus family. Another (retro) way in which these viruses carry out the infection process is to begin with the integration of DNA RNA into the DNA of the host cell (in this case, human DNA), produce a provirus, and then replicate (imitation). T helper sets, T lymphocytes, T cells, and CD4 are cells in the human body that are the target of destroying the HIV virus. These CD4 cells are the highest-ranking cells in the human body's defense system, and are responsible for immediately sending commands to all the body's defense cells. If the HIV virus attacks and disables these cells, the human immune system will be compromised, making the person more susceptible to other viral infections later in life.

In reality, someone who has HIV-AIDS experiences discrimination and exclusion from the surrounding community. This results in human rights violations in the form of disappearances to be able to live on an equal basis with other humans in the community. Therefore, in writing this article, it is necessary to present and discuss this problem, in order to find the best solution so that discriminatory matters and violations can be avoided.

From this discussion, the author focuses on several questions, including; What are the causes and effects of PLWHA who are discriminated against? What are the legal efforts and protection of human rights for people living with HIV- AIDS (PLWHA)?

### Methods

Research is one of the facilities used by humans in the context of fostering and developing science to obtain data and materials needed in research activities. The research approach used in this study is a normative juridical approach, namely a method that uses secondary data sources, namely laws and regulations, legal theories, and the opinions of leading legal scholars. The data is then analyzed and conclusions are drawn from the problems that will be used to test and review the secondary data (Sumitro, 1998) [20]. This was done, in order to examine in depth the discrimination experienced by PLWHA.

## Results and Discussion

### AIDS and its Prevention Policy

AIDS stands for Acquired Immune Deficiency Syndrome which is a collection of symptoms and infections or commonly called a syndrome caused by damage to the human immune system due to the HIV virus, while HIV stands for Human Immunodeficiency Virus is a virus that can weaken immunity in humans (Darti, 2019) <sup>[4]</sup>.

HIV is the virus that causes AIDS, attacking one type of white blood cells called "T-4 cells" or "T-helper cells" or also called "CD-4 cells". HIV (Human Immunodeficiency Virus) and AIDS (Acquired Immunodeficiency Syndrome) is a disease that is considered a very disgusting and embarrassing disgrace. Because of this, many government policies have been issued to regulate and find solutions to prevent this disease. This can be seen in several policy regulations governing HIV/AIDS, including: (Gaghenggang, 2013) <sup>[5]</sup>

1. National HIV and AIDS Strategy 2003-2007.
2. National HIV and AIDS Strategy 2007-2010 and National Action Plan for Combating HIV/AIDS in Indonesia..
3. HIV and AIDS National Strategy and Action Plan 2010-2014..
4. Presidential Decree No. 36 of 1994 concerning the AIDS Commission.
5. Decree of the Minister of Manpower and Transmigration No.68 of 2004 concerning HIV/AIDS Prevention and Control in the Workplace.
6. Presidential Decree of the Republic of Indonesia No. 75 of 2006 concerning the AIDS Commission.
7. Regulation of the Coordinating Minister for People's Welfare No. 02/PER/MENKO/K ESRA/I/2007 concerning the National Policy for Combating HIV and AIDS through Reducing the Adverse Effects of the Use of Psychotropic Narcotics and Injecting Addictive Substances.
8. Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 20 of 2007 concerning the AIDS Commission.
9. Joint ILO/WHO Guidelines on Health Services and HIV/AIDS.
10. Global Business Coalition on HIV/AIDS, New York.
11. Joint United Nations Programme on HIV/AIDS, Geneva.
12. World Health Organization, Geneva.

The development of HIV/AIDS in various countries also significantly influences the Indonesian government in providing protection for the rights of people living with HIV/AIDS. One of the government's steps is outlined in the national strategy for dealing with HIV/AIDS. (National AIDS Commission, 2003).

### Movement for the Rights of PLWHA

In reality, the protection of the rights of people living with HIV-AIDS (PLWHA) has not fully fulfilled the values of human rights. The development of HIV/AIDS has raised many new problems such as prejudice, ignorance, and discriminatory attitudes. Discrimination against PLWHA is sometimes stated as a second disease (Hon, 1995) <sup>[8]</sup>.

Protection of the human rights of PLWHA must pay attention to religious values, culture/norms of the community, and activities are directed to maintain and strengthen family resilience and welfare.

Stigma against PLWHA is driven by the assessment that suffering from HIV/AIDS is a consequence of deviant behavior that has actually been stigmatized in society long before HIV/AIDS developed to this day. Stigma often causes discrimination and in turn will encourage violations of the human rights of PLWHA. Discrimination that arises as a result of negative views often encourages every person or institution to treat someone unfairly, which is based on prejudice to their HIV/AIDS status.

Article 1 paragraph 3 of Law Number 39 of 1999 concerning Human Rights states that discrimination is: "Any restriction, harassment, or exclusion that is directly or indirectly based on human discrimination on the basis of religion, ethnicity, race, ethnicity, group, class, social status, economic status, gender, language, political beliefs, which result in the reduction, deviation, or elimination, recognition, implementation or use of human rights and basic freedoms in both individual and collective life in the political, economic, legal, social fields, culture and other aspects of life".

People still have a mindset that all people affected by HIV/AIDS are naughty people, people who often violate God's rules and social norms that exist in society. However, in reality there are also PLWHA who are none other than victims, such as wives who are infected from their husbands and/or children who are infected from their parents. Stigma against HIV/AIDS and people who suffer from it makes families and communities insult PLWHA.

Knowledge of HIV/AIDS consists of four parts of knowledge, namely: HIV/AIDS, modes of transmission, and methods of prevention. In fulfilling the rights of PLWHA to be free from discriminatory treatment, the state needs to provide legal protection for PLWHA. Satjipto Raharjo defines legal protection as providing protection for human rights that have been harmed by others and this protection is given to the community so that they can enjoy all the rights granted by law (Rahardjo, 2000) <sup>[17]</sup>.

PLWHA has an important role in the chain of transmission. One of the measures to prevent transmission is controlling risky behavior from PLWHA themselves to be the most important part in efforts to control HIV/AIDS. Because they are people whose lives are touched and directly affected by the HIV virus. With the

aim of breaking the chain of HIV transmission and reducing the socioeconomic impact of HIV/AIDS (Yudi, 2014) <sup>[21]</sup>.

### **Causes and Effects of PLWHA Experiencing Discrimination**

Indonesia is the country with the fastest rate of spread of the HIV/AIDS virus in Asia (Akbar; Langingi; Darmin, 2020) <sup>[2]</sup>. Indonesian people began to recognize HIV and AIDS in 1987, when the first cases of this infection were found in Bali. Previously, this infection had existed, but was unknown. The first reported case occurred in a foreign man who was already in the AIDS phase, which is when a number of symptoms of the disease attack the body due to decreased immunity due to HIV. Noldy put forward the notion that HIV is a virus that attacks the human immune system and causes a syndrome of decreased immune system, commonly called acquired immune deficiency syndrome (AIDS) (Noldy, 2006) <sup>[12]</sup>. Meanwhile, according to Brooks GF, it is said that Acquired Immune Deficiency Syndrome (AIDS) is a collection of symptoms and infections or syndromes that arise due to damage to the human immune system due to infection with the HIV virus or infection with other viruses that can lower the immune system. The virus that causes it is called Human Immunodeficiency Virus (HIV) which is a virus that weakens immunity in the human body (Brooks, et al, 2010) <sup>[3]</sup>.

Protection of human rights is one of the characteristics of the rule of law. Human rights are rights that every human being is born with. One of the principles of human rights is equality and non-discrimination. However, even worse, discriminatory actions are often carried out by the sufferer's own family, apart from people in the work environment, health workers and the general public (Aggleton, 2000) <sup>[1]</sup>. Stigma against PLWHA is one of the biggest obstacles in the prevention, care, treatment, and support of PLWHA, and knowledge about HIV/AIDS also affects the occurrence of stigma against PLWHA (Situmeang, et.all, 2012).

The spread of HIV/AIDS in Indonesia is currently almost evenly distributed in various provinces, this is evidenced by the receipt of AIDS case reports from 34 provinces and HIV infection from 34 provinces in Indonesia. Community vulnerability to HIV/AIDS transmission is also influenced by biological, social, cultural, economic, and legal conditions (Grover, 2000) <sup>[6]</sup>.

Problems related to PLWHA are not just health problems but also other social problems involving other aspects, namely how to make them live healthy after knowing they are infected with the deadly HIV virus. In addition, they are also faced with psychological problems, especially those that occur when the blood test results are positive for HIV. Feelings of shock, sadness, and stress must have hit their minds. Another problem they also experience is the rejection of the fact that they are infected with the HIV virus, even though they seem healthy. This mental condition causes people living with HIV to feel useless, have a bleak future, cannot do anything for themselves and their families and do not have access to jobs and have limitations in their social interactions (Rahakbauw, 2016) <sup>[16]</sup>.

A person infected with HIV in the early stages cannot be clearly distinguished from a healthy person. This is because the patient does not show signs of physical abnormalities that indicate that he is infected with HIV. The only way to know whether a person is infected with HIV or not is to have an HIV test. This test is done on blood, body fluids or other organs and is used to determine whether a person has been infected with HIV or not.

With the lack of information and knowledge about HIV-AIDS, the things that cause people to avoid PLWHA, resulting in the nature and attitude of discrimination are as follows:

First; Verbal insults. Insults against PLWHA in the form of words and sentences are expressed to demean PLWHA in the form of being blamed for having HIV because of deviant behavior in the past; prayed for a speedy death; dissemination of HIV status; disgusting disease; accused of selling himself; infectious disease and must be avoided.

Second; Avoidance. In the aspect of avoidance, it is known that avoidance is carried out by families, communities and health services. Avoidance is carried out by avoiding or staying away from PLWHA in the form of separating eating utensils and bathing utensils; talk to PLWHA from afar; not greeted when meeting in a public place; stay away when PLWHA passes in front of the house; do not want to eat food served by PLWHA; throw away food given by PLWHA; do not want to buy PLWHA merchandise; do not want to sit next to PLWHA; not answering questions asked by PLWHA and looking away; do not want to ride PLWHA; do not want to shake hands with PLWHA; and do not want to help give birth to PLWHA.

Third; Exclusion. There is an aspect of exclusion, it is known that ostracism is carried out by families and communities. Exclusion of PLWHA in the form of not allowing PLWHA to participate in community activities; no one visits PLWHA when they are sick; do not want to help PLWHA who are experiencing difficulties; not allowing PLWHA of child age to go to school; not allowing PLWHA of child age to play with their peers; the family does not want to take care of PLWHA; PLWHA are not allowed to go home and exile the bodies of PLWHA.

Fourth; Physical abuse. In the aspect of physical violence, it is known that physical violence is carried out by families and communities. Physical violence is carried out by hurting, hitting or attacking PLWHA because of their HIV status. The following are physical violence received by PLWHA: beaten and kicked by their husbands; being harassed by siblings; as well as being forcibly evicted by the community from their place of residence.

The understanding that people suffering from HIV/AIDS have committed a grave sin, so that they are punished by God with a deadly disease, apart from being more based on the idea that HIV/AIDS can only infect certain groups that are considered to have deviant and risky behavior, such as homosexuals, sex workers, people who change partners, and drug users.

Discrimination against PLWHA has a close relationship with stigma against HIV and AIDS, namely stigma encourages someone to discriminate, which in turn causes various human rights violations against PLWHA and people living with HIV/AIDS (OHIDHA).

People's knowledge of HIV/AIDS will affect the attitudes and behavior of people with less knowledge about HIV/AIDS, so they will behave and behave away from people who are infected with the disease, some even think that the disease is not dangerous and not deadly. On the other hand, if the knowledge is sufficient, the attitude given to sufferers is different, in this case the community will be more accepting of the presence of PLWHA. In fact, if the knowledge and understanding of HIV/AIDS is correct, the transmission can be prevented (Nurwati & Rusyidi, 2019) <sup>[13]</sup>.

Stigma around HIV/AIDS appears in various contexts, including in the family, community, education, work, hospitals, clinics, all of which have an impact on access to and opportunities for services. If the stigma is not resisted, it will lead to the formation of self-awareness of how people see themselves, and what is more dangerous is the emergence of a belief in oneself that the bad stamp given is naturally accepted as a fact. This causes people to feel ashamed, feel inferior and feel worthless. The consequences experienced have an impact on PLWHA being closed individuals, withdrawing from social interactions, being exclusive, and even not trusting people outside their group anymore (Rahakbauw, 2016) <sup>[16]</sup>.

### **Legal Efforts and Human Rights Protection for People Living with HIV-AIDS (PLWHA)**

Protection of rights for people living with HIV/AIDS (PLWHA) is part of health law. Legislation related to people living with HIV/AIDS becomes a guideline and legal basis to protect and guarantee the rights of each individual (Nygren-Krug, 2002) <sup>[14]</sup>. HIV/AIDS itself has international protection as outlined in the form of legislation, modules, guidelines and conferences related to discrimination against HIV/AIDS sufferers (Gaghenggang, 2013) <sup>[5]</sup>. Regarding HIV-AIDS itself, the law has a role to support the welfare of people with HIV & AIDS or those who are vulnerable to HIV & AIDS. The existence of protection of the human rights of people living with HIV & AIDS as well as those who are vulnerable to HIV & AIDS, can help create a social and legal environment that encourages people to access and utilize existing services.

The basic principles of human rights of people living with HIV/AIDS are not separate rights, but are interrelated (HIV/AIDS and Human Rights: International Guidelines, 1996) <sup>[15]</sup>. Human rights issues that are closely related to people living with HIV/AIDS include the right to health, the right to education, the right to life, the right to freedom and security, the right to obtain information and freedom of expression, the right to have a household and form a family, the right to obtain equal status and services between men and women, and the right to be free from discriminatory actions (Piot, 1996) <sup>[15]</sup>.

Protection of people with HIV/AIDS (PLWHA) in Indonesia has not received maximum attention and treatment, both from the government and various other related parties. This can be seen from at least three things. First, the development of HIV/AIDS in Indonesia based on available data is known to be increasingly widespread and continues to increase until it almost infects various human populations in Indonesia. Second, the existing laws and regulations, especially those related to protection for people living with HIV/AIDS in Indonesia, are inadequate. Third, the protection of the human rights of people living with HIV/AIDS has not been fully addressed. This is known from the many discriminatory treatments experienced by people with HIV/AIDS. (National AIDS Commission, 2003), (Richter, 1999) <sup>[18]</sup>.

Human rights values have been formulated in the constitution and laws and regulations. In relation to the protection of the rights of people living with HIV/AIDS, there are three very basic values, namely: First: non-discrimination, one of the universal human rights values is non-discrimination. Because there are negative views that treat someone unfairly based on their preconception of someone's "vulnerable group" status. Theoretically, there are two forms of discrimination, namely institutional and individual.

The value of non-discrimination in the ICESCR is stated in the introduction, which states that the rights set out in this covenant are derived from the universal declaration of human rights, especially regarding the freedom of fear and liberty. In the introduction, it reads: "...Recognizing that, in accordance with either the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights..."

Second, tolerance. Understanding from the perspective of HIV/AIDS, tolerance is a value that is implemented in attitudes and actions that provide protection for the rights of people living with HIV/AIDS. Law Number 11 of 2005 concerning Ratification of the International Covenant on Economic, Social and Cultural Rights (International Covenant on Economic, Social and Cultural Rights) contains several contents that can be categorized as tolerant.

Third, empathy. Empathy is a caring attitude towards the rights of people living with HIV/AIDS. Meanwhile, non-discrimination is a value that does not provide equal treatment and does not discriminate against people living with HIV/AIDS. Law Number 36 of 2009 concerning Health fulfills the value of empathy. Article 14 states that the Government is responsible for planning, regulating, organizing, fostering, and supervising the implementation of health efforts that are evenly distributed and affordable by the community. Article 15 states that the Government is responsible for the availability of the environment, arrangement, health facilities, both physical and social for the community to achieve the highest health status.

HIV prevention is important to public health, including circumcision in men, administration of antiretrovirals to prevent transmission of an infected mother to her child, antiretroviral therapy in HIV-infected persons to prevent transmission and antiretrovirals to prophylaxis against exposure.

### Conclusion

HIV/AIDS is a disease that attacks the human immune system. People living with HIV/AIDS in Indonesia are increasing from year to year. People with HIV/AIDS are often ostracized, get cynical views and avoid even meeting their family members. The sufferers of social relations from society are feeling depressed, humble and aloof. This creates a negative stigma against PLWHA.

The community's stigma against PLWHA is influenced by several assumptions, such as diseases that cannot be prevented or controlled, diseases caused by "immoral people", and diseases that are easily transmitted to others. This stigma reflects deep social class gaps. Therefore, the government is obliged to provide protection and anti-discrimination guarantees, so that there are no human rights violations for the people of PLWHA. In addition to the need for public understanding, if HIV/AIDS is not a cursed disease, it may be because it is infected from other things that are not just through sexual intercourse.

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