

Justice for PLHIV Workers: Islamic and National Legal Approaches to Protecting Labor Rights

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Abstract

Discrimination against individuals living with HIV/AIDS (PLHIV) in the workplace constitutes a grave violation of the principles of justice and non-discrimination upheld by both national and Islamic legal systems. This study examines the legal protection of PLHIV's labor rights from the perspectives of national law and Islamic jurisprudence, and evaluates the extent to which the principle of justice is reflected in employment practices across Indonesia. Employing a normative juridical approach, this research collected data from a literature review of national regulations, human rights principles, and the objectives of Islamic law (*maqāṣid al-sharī'ah*). The findings reveal that despite the existence of legal protection, its implementation remains insufficient. Discrimination resulting in recruitment rejections, employment terminations, and restricted career advancement persists. These conditions have been exacerbated by societal stigma and weak legal enforcement. From the perspective of Islamic law, the imperatives of *hifẓ al-naḥs* (protection of life) and *hifẓ al-'ird* (protection of dignity) underscore the necessity of equitable treatment for all individuals. The study recommends an integrative approach that combines national and Islamic legal frameworks to ensure more comprehensive and just protection for PLHIV workers. Reinforcing regulatory mechanisms, eliminating HIV-negative certification requirements in hiring processes, and conducting widespread public education are essential steps toward fostering a more inclusive, stigma-free work environment.

Keywords: *Justice Protection, PLHIV, Islamic Law, National Law, Discrimination*

Abstrak

Diskriminasi terhadap individu yang hidup dengan HIV/AIDS (PLHIV) di tempat kerja merupakan pelanggaran serius terhadap prinsip keadilan dan non-diskriminasi yang dijunjung tinggi oleh sistem hukum nasional maupun Islam. Studi ini mengkaji perlindungan hukum atas hak-hak ketenagakerjaan PLHIV dari perspektif hukum nasional dan fiqih Islam, serta mengevaluasi sejauh mana prinsip keadilan tercermin dalam praktik ketenagakerjaan di seluruh Indonesia. Menggunakan pendekatan yuridis normatif, penelitian ini mengumpulkan data dari tinjauan literatur peraturan nasional, prinsip-prinsip hak asasi manusia, dan tujuan hukum Islam (*maqāṣid al-sharī'ah*). Temuan menunjukkan bahwa meskipun perlindungan hukum tersedia, implementasinya masih belum memadai. Diskriminasi yang mengakibatkan

penolakan perekrutan, pemutusan hubungan kerja, dan pembatasan kemajuan karier masih berlangsung. Kondisi ini diperparah oleh stigma sosial dan penegakan hukum yang lemah. Dari perspektif hukum Islam, prinsip *hifz al-nafs* (pelindungan nyawa) dan *hifz al-'ird* (pelindungan martabat) menekankan pentingnya perlakuan yang adil bagi semua individu. Studi ini merekomendasikan pendekatan terintegrasi yang menggabungkan kerangka hukum nasional dan Islam untuk memastikan perlindungan yang lebih komprehensif dan adil bagi pekerja dengan HIV/AIDS (PLHIV). Memperkuat mekanisme regulasi, menghilangkan persyaratan sertifikasi HIV negatif dalam proses perekrutan, dan melaksanakan pendidikan publik yang luas merupakan langkah-langkah penting menuju pembentukan lingkungan kerja yang lebih inklusif dan bebas stigma.

Kata kunci: *Perlindungan Keadilan, Orang dengan HIV/AIDS (ODHA), Hukum Islam, Hukum Nasional, Diskriminasi*

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Introduction

Human Immunodeficiency Virus (HIV) remains a serious global public health issue. According to an official WHO report (July 2024), by the end of 2023, there would be 39.9 million people living with HIV, with 1.3 million new infections and approximately 630,000 HIV-related deaths worldwide.¹ While advances in antiretroviral therapy have made HIV a controllable condition, the problems of HIV are not only medical.² In many countries, particularly in developing regions such as Southeast Asia and Africa, people living with HIV (PLHIV) still face stigma,³ social exclusion,⁴ and systemic discrimination, especially in the workforce.⁵

¹World Health Organization, "Global HIV Statistics 2023: Fact Sheet," Website World Health Organization, 2024.

² C. McGoldrick, "HIV and Employment," *Occupational Medicine* 62, no. 4 (2012): 242–53, <https://doi.org/10.1093/occmed/kqs051>.

³ Mohammad Taufiq Adiansyah, Andrei Ramani, and Ni'Mal Baroya, "Determinants of Stigma on People Living With Hiv and Aids in Indonesia (Evidence From 2017 Idhs Data)," *Indonesian Journal of Public Health* 18, no. 2 (2023): 291–301, <https://doi.org/10.20473/Ijph.v18i2.2023.291-301>.

⁴ L. Sprague, S. Simon, and C. Sprague, "Employment Discrimination and HIV Stigma: Survey Results from Civil Society Organisations and People Living with HIV in Africa," *African Journal of AIDS Research* 10, no. SUPPL. 1 (2011): 311–24, <https://doi.org/10.2989/16085906.2011.637730>.

⁵ Anisa Gita Aurelia and Rini Irianti Sundry, "Legal Protection for HIV/AIDS Workers: An

In Indonesia, PLHIV has now become one of the government's focuses following the increasing cases in the country, considering that there has not been any drug to cure HIV.⁶ The Indonesian Health Ministry reports that HIV/AIDS cases remain high. These cases had been predicted to exceed 500,000 HIV cases by September 2023. Until September 2023, 515,455 people were living with HIV (PLHIV) in Indonesia. However, this soaring number has raised concern in most communities, particularly relating to the discrimination at work against PLHIV.⁷ The discriminative behavior against PLHIV includes ostracism, refusal to enter an institution, termination of employment, and dismissal, which violate rights.⁸

Protecting the rights of those with HIV, particularly the right to work, is necessary. Protecting PLHIV's right to work is essential to implementing a favorable, discrimination-free system.⁹ In a study conducted by Titi Saparina et al. (2022) on the determinants of stigma against PLHIV, particularly in the working area of the Perumnas community health center, the frequency distribution of the total 90 respondents, according to community stigma against PLHIV, shows that the majority of respondents (83.3%) still stigmatize PLHIV, while only 16.7% of respondents show a positive attitude. Furthermore, based on community perceptions, 55 respondents (61.1%) held negative perceptions toward PLHIV, while only 35 respondents (38.9%) held positive perceptions. This study reinforces the reality on the ground that stigma and negative perceptions by the community toward PLHIV remain highly prevalent, particularly in the workplace.¹⁰

Therefore, it is essential to protect the rights of every person, especially the right

Analysis of Minister of Manpower and Transmigration Regulation No. Kep. 68/Men/IV/2004 on HIV/AIDS Prevention and Control in the Workplace, in Conjunction with Law No. 13/2003," *Law Research Proceedings* 6 (2020): 98–102.

⁶ Adiansyah, Ramani, and Baroya, "Determinants of Stigma on People Living With Hiv and Aids in Indonesia (Evidence From 2017 Idhs Data)."

⁷ Dhifa Iftanan Maita, Admiral Nelson Aritonang, and Helly Oktilia, "Discrimination Experienced by People Living with HIV/AIDS (ODHA) at Sehat Panghuripan Sukowati Foundation, Sragen Regency," *Indonesian Journal of Social Work* 4, no. 02 (2021): 127–45, <https://doi.org/10.31595/ijsw.v4i02.342>.

⁸ Nanik Trishastuti and Pujiyono, "Reconstruction of Legal Protection and Human Rights Enforcement for Housewives's Against the Risk of HIV/AIDS Transmission from Their Husbands.," *Journal Legal Issues* 43, no. 4 (2014): 514–28, <https://doi.org/10.14710/mmh.43.4.2014.514-528>.

⁹ M. Fisher and M. Henrickson, "Are Statutory Protections Sufficient to Protect People Living with HIV Who Are Employed in the Medical Workplace?," *International Journal of Healthcare Management* 12, no. 1 (2019): 75–80, <https://doi.org/10.1080/20479700.2017.1398387>.

¹⁰ Titi Saparina et al., "Determinan Stigma Terhadap Orang Dengan HIV/AIDS Di Wilayah Kerja Puskesmas Perumnas," *Jurnalkesehatan Masyarakat Celebes* 03, no. 01 (2022): 16–22.

to work for people living with HIV. Fulfilling this right is integral to creating an inclusive, fair, and discrimination-free social system. Some parties have made efforts to overcome discrimination and stigma against PLHIV. Research conducted by Anisa and Sri (2025) found that Rumah Cemara conducted an outreach program by disseminating information and advocating through various media, including sports, social media, public spaces, and individual case management. Although this approach does not directly target PLHIV's social environment, the results are considered effective in increasing public knowledge and promoting more inclusive attitudes toward PLHIV.¹¹

Peer support groups such as KDS Pakungwati in Cirebon City also play an essential role in providing psychological counseling and social support. Through programs such as home visits and study clubs, KDS strives to curb stigma and provide accurate information about the matter, so that people living with HIV/AIDS feel more accepted in society. These efforts help PLHIV face health-related issues while contributing to improving their overall quality of life. With strong support from the community, it is hoped that negative stigma towards PLHIV can be minimized and they can live more independently and empowered.¹²

Some previous studies are relevant to this research. Millah and Al-Dzikri (2023) focused their research on Indonesian migrant workers infected with HIV/AIDS. This study highlights the regulatory and social challenges faced by PLHIV, particularly in accessing health services and protecting against stigma. Another study by Lidia Febrianti et al. (2023) titled “Legal Protection of Contract Workers' Wages Viewed from Indonesian Labor Law and Islamic Law” makes a significant contribution to the discourse on the protection of workers' rights.

This research highlights the wage protection gap for contract workers and emphasizes the importance of applying the principles of justice in employment relations, grounded in the dualism of the national and Islamic legal systems.¹³ In a related context, Ananta and Ratna's (2021) research highlighted the difficulties people

¹¹ Anisa Safaat Fajjah and Sri Sulastri, *Upaya Lembaga Pelayanan Sosial Dalam Menghapus Stigma Terhadap ODHIV/ODHA: Studi Kasus Di Rumah Cemara*, 14, no. 2 (2025): 88–103.

¹² Asriyanti Rosmalina and Dedi Kurnaedi, “Pendampingan Terhadap Orang Dengan HIV/AIDS Oleh Kelompok Dukungan Sebaya Pakungwati Kota Cirebon,” *Dimasejati: Jurnal Pengabdian Kepada Masyarakat* 2, no. 1 (2020): 35, <https://doi.org/10.24235/dimasejati.v2i1.6650>.

¹³ Aimatul Millah and Mar'i Ghoni Al-Dzikri, "Implementation Of The Protection Of Indonesian Migrant Workers Infected With Human Immunodeficiency Virus And Acquired Immunodeficiency Syndrome," *Pulpit Of Yustitia: Journal of Law and Human Rights* 7, no. 2 (2023): 127–43.

with disabilities face in accessing employment in Semarang City. The study shows that people with disabilities still face structural barriers in accessing their right to work, mainly due to weak policy implementation at the local level.¹⁴ Despite the different study subjects, the problems of structural discrimination and limited access that they experience have fundamental similarities with the challenges faced by PLHIV.¹⁵

Thus, this study offers novelty by integrating approaches from national and Islamic law to examine the protection of PLHIV labor rights. Unlike previous studies that were limited to specific groups or legal systems, this study emphasizes the principles of justice and non-discrimination and evaluates the effectiveness of coercive regulations. This approach broadens and deepens understanding of legal protections for PLHIV while promoting an inclusive and fair work environment. To reinforce the normative basis of this integrative approach, it is important to review national regulations and human rights instruments that explicitly guarantee the non-discrimination principle in employment.

Essentially, justice in the protection of workers' rights and the prohibition of discrimination are enshrined in Article 7 of the Universal Declaration of Human Rights (UDHR), Article 27(2) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as 1945 Constitution), Law No. 40 of 2008, and the Labor Law No. 13 of 2003.¹⁶ All these written regulations affirm the principle of non-discrimination as a fundamental human right, concluding that discrimination, especially against PLHIV, is completely unacceptable in any form. However, the majority of society overlooks these regulations and is more concerned with protecting themselves, while not fully understanding the transmission of HIV.

Efforts to eliminate discrimination, especially against PLHIV, are in line with the words of Allah swt in Q.S Al-Hujurat Verse 13, which, in essence, implies that all

¹⁴ Lidia Febrianti et al., "Legal Protection of Contract Worker Wages Based on Indonesian Labor Law and Islamic Law," *JCOSTING: Journal of Economic, Bussines and Accounting (COSTING)* 5, no. 2 (2022): 1755–64, <https://doi.org/10.31539/costing.v6i1.4120>.

¹⁵ Ananta Refka Nanda and Ratna Herawati, "Challenges and Solutions for People with Disabilities in Semarang City in Accessing Employment," *Indonesian Journal of Legal Development* 3, no. 3 (2021): 325–36, <https://doi.org/10.14710/jphi.v3i3.325-336>.

Ananta Refka Nanda and Ratna Herawati, "Kendala Dan Solusi Bagi Penyandang Disabilitas Kota Semarang Dalam Mengakses Pekerjaan," *Jurnal Pembangunan Hukum Indonesia* 3, no. 3 (2021): 325–36, <https://doi.org/10.14710/jphi.v3i3.325-336>.

¹⁶ Aurelia and Sundry, "Legal Protection for HIV/AIDS Workers: An Analysis of Minister of Manpower and Transmigration Regulation No. Kep. 68/Men/IV/2004 on HIV/AIDS Prevention and Control in the Workplace, in Conjunction with Law No. 13/2003."

humans are equal before Allah and differences between humans in terms of ethnicity, nation, race, and disorders are blessings, allowing humans to know each other. Thus, discrimination contravenes the noble nature of Islamic teachings. Muhammad Quraish Shihab asserts that differences between humans represent the greatness of Allah SWT. These differences should unite people and create opportunities for them to work together, not to demean or discriminate against one another. Based on the verses and opinions of experts, discrimination is against the teachings of Islam and Islamic Law.¹⁷

Discrimination against PLHIV violates human rights and contradicts the principles of justice in Islam and the national legal system. This study aims to determine the legal protection of the right to work for PLHIV through Islamic and national legal approaches, and to examine to what extent the principles of justice and non-discrimination have been implemented in employment practices. This research is based on the assumption that discrimination against¹⁸ PLHIV in the workplace occurs due to a lack of understanding of the applicable legal norms and the suboptimal integration of justice values in Islamic law into the labor protection system in Indonesia. Based on this assumption, this study proposes the hypothesis that an integrative approach between Islamic law and national law can provide a more comprehensive and effective legal protection model to guarantee the employment rights of PLHIV and eliminate discriminatory practices in the workplace.

Methods

This study employs a normative legal approach, involving library research to examine primary and secondary legal materials. Primary legal materials include relevant legislation, including Law No. 11 of 2020 concerning Job Creation, Law No. 39 of 1999 concerning Human Rights, Law No. 5 of 2014 concerning the State Civil Apparatus, Regional Regulation No. 12 of 2018 concerning HIV and AIDS, and the Minister of Manpower and Transmigration Decree No. KEP.68/MEN/IV/2004 concerning the Prevention and Control of HIV and AIDS in the Workplace. Secondary legal materials include relevant literature, such as books, scientific journals, and expert legal opinions that support the analysis in this study. This research also incorporates a doctrinal approach

¹⁷ Quraish Shihab Muhammad, *Tafsir Al-Mishbah: Pesan, Kesan Dan Keserasian al-Qur'an* (Jakarta: Lentera Hati, 2001).

¹⁸ Deri Firmansyah and Asep Suryana, "The Concept of Moral Education: A Study of Tafsir Surah Al Hujurat Verses 11-13," " *Al-Mutharahah: Journal of Social and Religious Research and Studies* 19, no. 2 (2022): 58–82, <https://doi.org/10.46781/al-mutharahah.v19i2.538>.

through the study of Islamic law by referring to the Qur'an, Hadith, and Ijma' as the primary sources to understand the concept of justice and the protection of the rights of PLHIV from the perspective of Islamic law.

Two main theories are used as the foundation. First, John Rawls' Theory of Justice emphasizes the importance of fair distribution of rights and protection for vulnerable groups. In this context, PLHIV often face discrimination, and the Rawls' approach demands a legal system that guarantees equal treatment and access to their fundamental rights.¹⁹ Second, the Theory of *Maqāṣid al-Sharī'ah* in Islamic law focuses on the five main objectives of Sharia: the protection of religion, life, intellect, lineage, and property. The protection of PLHIV can be analyzed within the framework of *ḥifẓ al-naḥs* (preservation of life) and *ḥifẓ al-'ird* (preservation of dignity), where Islam provides a strong foundation for respect, justice, and humane treatment of every individual, including those living with HIV/AIDS.²⁰

Results and Discussion

PLHIV from the Perspective of Human Rights and National Law

People living with HIV/AIDS (PLHIV) are among the most vulnerable groups to stigma and discrimination.²¹ As a vulnerable group, PLHIV are entitled to guarantees and protection of their fundamental rights.²² In this context, human rights instruments and national law play an essential role in ensuring equal treatment. From a human rights perspective, the elimination of discrimination is highlighted in the International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified by Law No. 7 of 1984, and further reinforced through Law No. 29 of 1999 and Law No. 40 of 2008 concerning the Elimination of Racial and Ethnic Discrimination.²³ Furthermore, Articles 2 and 9(3) of Law No. 39 of 1999

¹⁹ Laura Zavatta and Rocco Cantelmo, "If Justice Wins : Theoretical-Legal Reflections on Rawls and the Current Situation," *Journal of Law and Criminal Justice* 12, no. June (2024): 23–31, <https://doi.org/10.15640/jlcj.v12a3>.

²⁰ Paryadi, "Maqashid Syariah : Definisi Dan Pendapat Para Ulama," *Cross-Border* 4, no. 2 (2021): 201–16.

²¹ C.R. Nwanna, "Discrimination Against People With HIV and AIDS in the Workplace: A Lagos State Example," in *Research Anthology on Cross-Industry Challenges of Industry 4.0* (2021), 3:1255–75, <https://doi.org/10.4018/978-1-6684-2405-6.ch064>.

²² L. Gernholtz, "An Overview of Some of the Key Legal Developments in HIV/AIDS and the Law - 2003," *Southern African Journal of HIV Medicine*, no. 14 (2004): 40–43, <https://doi.org/10.4102/sajhivmed.v5i1.571>.

²³ Gagheggang Agyta, "Discrimination Against HIV/AIDS Patients According to Human Rights," *Lex et Societatis* 26, no. 4 (2013): 1–37.

concerning Human Rights affirm that human rights are inherent to every individual and that everyone has the right to a good and healthy living environment. This includes the right of PLHIV to live a better and more dignified life.²⁴

Based on these provisions, the state is obligated to protect and fulfill the rights of PLHIV in legal, political, educational, and employment contexts.²⁵ The spirit of eliminating discrimination aligns with the principle of the rule of law, which places the protection of human rights as a fundamental element. Indonesia has demonstrated its commitment to human rights through amendments to the 1945 Constitution, particularly Articles 28A–28J, which guarantee the rights of all citizens regardless of background. However, the implementation of human rights protections for PLHIV in Indonesia still faces issues.²⁶ Stigma and discrimination remain major barriers to accessing healthcare, education, and employment.²⁷

According to the National Human Rights Commission (Komnas HAM), such discrimination not only violates human rights but also hinders national efforts to combat HIV/AIDS. Legally, Article 28D (1) of the 1945 Constitution guarantees fair treatment and legal certainty for every citizen, while Article 28H (1) affirms the right to physical and mental well-being, adequate housing, and access to healthcare without discrimination.²⁸ The phrase “every person” in these provisions includes PLHIV as one of the vulnerable groups.²⁹

Table 1. Correlation between the 1945 Constitution and PLHIV Rights

No	Article of the 1945 Constitution	PLHIV Rights
1.	Article 28 A stipulates that everyone has the right to life,	PLHIV have the right to live to maintain their lives. The fulfillment of

²⁴ Sprague, Simon, and Sprague, “Employment Discrimination and HIV Stigma: Survey Results from Civil Society Organisations and People Living with HIV in Africa.”

²⁵ R. Brands, “New ILO Standard on HIV Rejects Discrimination against HIV-Positive Workers.,” *HIV/AIDS Policy & Law Review / Canadian HIV/AIDS Legal Network* 15, no. 1 (2010): 58–59.

²⁶ Andi Muhammad Asrun, “Human Rights in the Framework of the Ideals of the State of Law,” *Journal of Legal Cipta* 4, no. 1 (2016): 133–54, <https://doi.org/10.15408/jch.v4i1.3200>.

²⁷ Sprague, Simon, and Sprague, “Employment Discrimination and HIV Stigma: Survey Results from Civil Society Organisations and People Living with HIV in Africa.”

²⁸ Komnas HAM, “Pemenuhan Hak Asasi Manusia Bagi Orang Dengan HIV Dan Populasi Kunci,” Website Resmi Komnas HAM RI, 2024.

²⁹ Trishastuti and Pujiyono, “Reconstruction of Legal Protection and Human Rights Enforcement for Housewives’s Against the Risk of HIV/AIDS Transmission from Their Husbands.”

	the right to defend their life and livelihood	this right can be obtained through the fulfillment of health, education, and employment rights, among others.
2.	Article 28 B, paragraphs (1), (2), (3), and (4) stipulate that every person has the right to build a family through legal marriage, the right to survival, growth, and development, and the right to protection from violence and discrimination.	PLHIV have the right to build a family and have offspring, and the fulfillment of these rights needs the government's attention and the presence of health workers to prevent the spread of HIV/AIDS transmission. PLHIV also have the right to protection from any action that may cause violence and discrimination through the establishment of a special institution by the government established to protect PLHIV.
3.	Article 28 C, paragraphs (1), (2), (3), and (4) stipulate that everyone has the right to self-development, education to improve their quality of life, the right to obtain from science and technology, and the right to advance themselves collectively to build their society, nation, and country.	PLHIV have the right to participate in programs that can help them develop and improve their quality of life, and the right to continue their education without discrimination and to benefit from science and technology.
4.	Article 28 D, paragraphs (1), (2), (3) and (4), stipulates that everyone has the right to fair recognition, guarantees, protection, and legal certainty as well as equal treatment before the law, the right to	PLHIV have the right to legal recognition, including equal opportunity, access to public facilities, legal assistance, employment based on ability regardless of disease status, and employment in government agencies.

	work and get fair and decent compensation and treatment in labor relations, the right to equal opportunities in government and citizenship status.	
5.	Article 28 G, paragraphs (1), (2), and (3) stipulate that everyone has the right to the protection of personal and family honor and dignity, the right to security and protection from threats of fear to do or not do something, and the right to be free from torture and degrading treatment.	PLHIV have the right to personal protection in the event of threats or acts of violence that can deprive them of honor and dignity, the right to security and protection from threats of fear from irresponsible parties.
6.	Article 28 H, paragraphs (1), (2) (3), (4), (5), and (6), stipulates that every person has the right to live in physical and mental prosperity, the right to live, the right to a good and healthy environment, the right to obtain health services, the right to obtain convenience and special treatment and the right to obtain social security.	PLHIV have the right to prosper physically and mentally including all forms of access they need, the right to a good living environment not to be isolated or marginalized in the community because of their disease status, the right to obtain health services, especially access to information about HIV/AIDS, access to good services and not discrimination, access to cheap and easy drugs and the provision of social security to meet the needs of PLHIV.

Source: Data processed by the author

In addition to constitutional guarantees, certain statutory laws and regulations, including the Regulation of the Minister of Health No. 21 of 2013

concerning HIV/AIDS Prevention and Control, and Law No. 36 of 2009 concerning Health, reinforce the principle of non-discrimination and the right of PLHIV to healthcare services. Despite the existence of a strong legal framework, discriminatory practices against PLHIV in the workplace still occur frequently.³⁰ In Islam, justice is a fundamental principle that demands equal treatment and respect for the rights and obligations of every individual. Everyone is equally positioned before God. Islam emphasizes fairness, the fulfillment of obligations, and the prohibition of unjustly taking others' rights.³¹

In this context, discrimination against the employment rights of PLHIV is contrary to the principle of Justice in Islam. Every individual has the same right to employment opportunities without stigma and unfair treatment, as asserted in *maqāṣid asy-syarī'ah*, highlighting the importance of protection of the soul (Hifz-nafs) and property (hifz-mal).³² In addition, the concept of justice in Islam has also been affirmed by Allah swt in His words QS. Verse 8 of the Qur'an:

يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوَّامِينَ لِلَّهِ شُهَدَاءَ بِالْقِسْطِ وَلَا يَجْرِمَنَّكُمْ شَنَاٰنُ قَوْمٍ عَلَىٰ أَلَّا تَعْدِلُوا ۖ اعْدِلُوا ۖ هُوَ أَقْرَبُ لِلتَّقْوَىٰ وَاتَّقُوا اللَّهَ ۚ إِنَّ اللَّهَ خَبِيرٌ بِمَا تَعْمَلُونَ

“O you who have believed, be steadfast in the cause of Allah and the witnesses with justice. Let not hatred of a people drive you to injustice. Be just, for that is nearer to piety. Fear Allah. Indeed, Allah is aware of what you do.”

The principle of justice is also a core value in the Indonesian legal system. As part of Pancasila, Justice is reflected in Articles 27 and 28 of the 1945 Constitution and Law No. 39 of 1999 concerning Human Rights. The state is also responsible for protecting vulnerable groups, including women, children, persons with disabilities, and individuals with infectious diseases.³³ In practice, however, justice is not always

³⁰ S. Kisting et al., “Improving Health Workers’ Access to HIV and TB Prevention, Treatment, Care and Support Services,” *World Hospitals and Health Services: The Official Journal of the International Hospital Federation* 46, no. 4 (2010): 34–35.

³¹ Muhammad A. Khan, “Justice in Economics: An Islamic Perspective,” in *Islamic Economics and Human Well-Being*, no. 2 (2024), 1:66–108, <https://doi.org/10.4337/9781035333691.00012>.

³² Jalili Ahmad, “Maqashid Theory In Islamic Law,” *Journal Of Sharia and Law* 3, no. 1 (2021): 1–14, <http://ejournal.stainkepri.ac.id/index.php/teraju>.

³³ Sumarta Sumarta, Burhandin Burhanudin, and Tenda Budiyo, “Maqasid Al-Shariah Promotes Justice and Balance in Islamic Law,” *Journal Khulasah Islamic Studies* 6, no. 1 (2024): 16–31, <https://doi.org/10.55656/kisj.v6i1.120>.

experienced equally. In the workforce, PLHIV often face discriminatory treatment or are unjustly dismissed.³⁴ Therefore, the state must strengthen the national legal system to ensure that the principle of justice is effectively upheld, particularly in protecting vulnerable populations.³⁵ By enforcing laws fairly and without discrimination, the state can realize comprehensive justice and safeguard the fundamental rights of all its citizens, including PLHIV.³⁶

Discrimination Against PLHIV In the Workspace

Discrimination refers to the unequal treatment of individuals or groups based on race, ethnicity, religion, or social status. Discrimination against PLHIV often occurs unconsciously and is even considered normal by some in society.³⁷ However, such actions contradict moral principles and democratic values. Politics also frequently influences the substance of laws, reinforcing systemic discrimination and hindering the realization of justice.³⁸ Theodson and Doob define discrimination as domination by the majority against minority groups perceived as weaker, often restricting their access to resources through legal or social means. In the context of PLHIV, discrimination is fueled by deeply rooted stigma, largely due to a lack of understanding about HIV.³⁹

PLHIV are often associated with sexual minorities, although HIV can also be transmitted through blood transfusions, needle sharing, or from mother to child during pregnancy, childbirth, or breastfeeding.⁴⁰ This stigma discourages many from getting tested, disclosing their status, or seeking treatment, ultimately worsening the spread of the virus. The main sources of stigma toward PLHIV include:⁴¹

³⁴ Suheri Ana, "Realizing Justice In Society From The Perspective Of National Law," *Journal Morality* 4, no. 1 (2018).

³⁵ H.M. Idiong et al., "An Assessment of the Implementation of the HIV Workplace Policy in Akwa Ibom State: A Cross-Sectional Descriptive Study," *BMC Health Services Research* 25, no. 1 (2025), <https://doi.org/10.1186/s12913-025-12586-z>.

³⁶ Nurtresna Robby, *The Role Of Law In Achieving Social Justice In Society*, 4, no. 2 (2019): 1581–96, <https://doi.org/10.53363/bureau.v4i2.429>.

³⁷ R. Elliott and J. Gold, "Protection against Discrimination Based on HIV/AIDS Status in Canada: The Legal Framework," *HIV/AIDS Policy & Law Review / Canadian HIV/AIDS Legal Network* 10, no. 1 (2005): 20–31.

³⁸ S.R. Christie, "Aids, Employment, and the Direct Threat Defense: The Burden of Proof and the Circuit Court Split," *Fordham Law Review* 76, no. 1 (2007): 235–82.

³⁹ Salma Aisha and Malika Baby Natasha, "Legal Protection Analysis For Discrimination Victims In Indonesia," *Journal Of Multidisciplinary Technology and Architecture* 2, no. 1 (2024): 409–17, <https://doi.org/10.57235/motekar.v2i1.2334>.

⁴⁰ Anita Dhewy, "Stigma and Discriminatory Regional Regulations Hinder People Living with HIV/AIDS (PLWHA) from Accessing Healthcare Services," INFID International NGO Forum on Indonesian Development, 2024.

⁴¹ Dr. Pittara, "Causes of HIV and AIDS," Alodokter, 2024.

1. Fear and misconceptions

A lack of education leads to misunderstandings about how HIV is transmitted.

2. Moral Judgments

HIV is often linked to deviant behavior, reinforcing negative stereotypes.

3. Lack of Accurate Information

Limited education perpetuates myths, even among healthcare workers.

4. Lack of Positive Representation

Success stories of PLHIV are rarely publicized, leaving room for negative views.⁴²

Factors contributing to workplace discrimination include a lack of information, low levels of education, societal influences, and poor economic conditions.⁴³ Data shows that the number of PLHIV in Indonesia remains high. As of June 2024, 503,201 people were living with HIV, but only 351,378 were aware of their status, highlighting ongoing gaps in information and access to healthcare. Discrimination against PLHIV in the workplace⁴⁴ is a serious violation of human rights. Creating an inclusive work environment requires collaboration among the government, companies, and society. Education alone is not enough unless supported by strong policies, consistent enforcement, and real legal protections to uphold the rights of PLHIV.⁴⁵

The number of PLHIV worldwide is 39 million people by the end of 2022 (WHO, 2023). The number of HIV infections in Indonesia in recent years, from 2020 to 2024, was still relatively high. The following is a summary of the information from the available data:

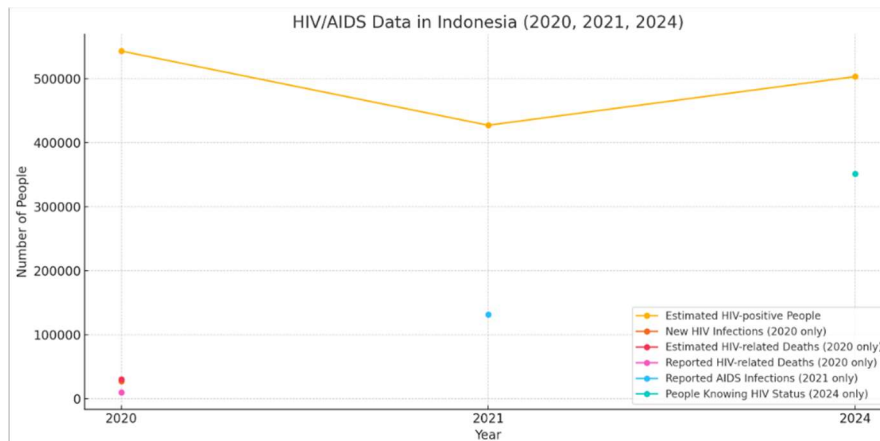
⁴² Muhammad Sultan, "HIV/AIDS and Its Impact on Productivity in Indonesian Workplaces," *Journal of Health* 14, no. 2 (2021): 83–89, <https://doi.org/10.32763/juke.v14i2.272>.

⁴³ Fatma Afrianty Gobel, "Stigma and Discrimination Against People Living with HIV/AIDS: Whose Duty and Responsibility?," Indonesia's AIDS Policy, 2014.

⁴⁴ Hreeloita Dharma Shanti, "The Ministry Of Health Estimates That The Number Of People Living With HIV In Indonesia Has Reached 543,100 Individuals," ANTARA Indonesian News Agency, 2021.

⁴⁵ C. Vézina, "AIDS in the Workplace: A Program That's Still Relevant.," *Canadian HIV/AIDS Policy & Law Review / Canadian HIV/AIDS Legal Network* 9, no. 1 (2004): 24–26.

Figure 1. HIV/AIDS data in Indonesia



Source: Data processed by the author

- In 2020, there were an estimated 543,100 HIV-positive people in Indonesia, an estimated 27,580 people were infected with HIV, and as many as 30,100 HIV-positive people were estimated to have died, of which 10,103 deaths had been reported.
- In 2021, as of March 2021, the total number of reported HIV infections was 427,201, of which 131,417 were AIDS infections.⁴⁶
- In 2024, it was estimated that the number of people living with HIV would reach 503,201 people. As of June 2024, there were still 351,378 HIV-positive people who were aware of their HIV status.⁴⁷

The strong stigma and discrimination against PLHIV should be overcome with ethical training, be it ethics in medical or ethics in proper treatment. Indonesian National Commission on Women's Rights Retty Ratnawati stressed the importance of a universal human rights-based approach in the handling and prevention of HIV/AIDS, in which HIV and people with HIV should be treated in accordance with universal human rights. Everyone has the right to life, the right to information, and the right to services provided by the state". Retty also added that no one should prevent PLHIV from getting their rights. She further said that people with HIV are also human and should be cared

⁴⁶ Shanti, "The Ministry Of Health Estimates That The Number Of People Living With HIV In Indonesia Has Reached 543,100 Individuals."

⁴⁷ "Commitment Gathering Meeting for Achieving the 2024 HIV Viral Load Target," "Provincial Health Office of Lampung," 2024.

for, not abandoned or ignored when sick.⁴⁸ Awareness and education on HIV/AIDS remain essential. The following table elaborates on the stigma and discrimination that often occur in the workplace.

Table 2. Stigma and Discrimination in the Workplace.

No	Form of Discrimination	Brief Description
1	Rejection in Job Recruitment	Individuals with HIV status often experience exclusion in the job recruitment process due to stigma and misconceptions about disease transmission.
2	Termination of Employment (PHK)	Companies often dismiss workers identified as PLHIV without objective medical grounds, but rather because of prejudice.
3	Career Restrictions	People living with HIV are often denied opportunities for promotion or further training because they are considered incapable of working productively in the long term.

Source: data processed by the author

1. Rejection in Job Recruitment

People living with HIV (PLHIV) are often rejected when applying for jobs due to the negative stigma surrounding HIV. Some companies even require an HIV-free certificate, although HIV status does not affect a person's work capability. A 2024 study in Manado revealed that some companies still require an HIV-free certificate as a job requirement. A young man named Renaldi (25 years old) was rejected after a test showed he was HIV positive. This violates the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia No. Kep.68/Men/IV/2004, which prohibits the use of HIV tests as a requirement for recruitment or continued employment. Adiansyah et al. (2023) also found that stigma often stems from limited public knowledge about HIV.⁴⁹ Blake et al. (2025) emphasized that educational approaches

⁴⁸ Dhewy, "Stigma and Discriminatory Regional Regulations Hinder People Living with HIV/AIDS (PLWHA) from Accessing Healthcare Services."

⁴⁹ Adiansyah, Ramani, and Baroya, "Determinants of Stigma on People Living With Hiv and Aids in Indonesia (Evidence From 2017 Idhs Data)."

alone are ineffective without formal policy support. This kind of discrimination hampers HIV control programs and limits access to healthcare and decent employment for PLHIV. Therefore, collaboration between the government, companies, and society is essential to build an inclusive, stigma-free work environment.⁵⁰

2. Termination of Employment (Layoffs)

Many PLHIV are dismissed due to their health status, even though there are no legal or medical grounds prohibiting them from working. If HIV testing is conducted, the results are confidential and should not be disclosed.⁵¹ In Manado, 11 out of 50 respondents in a study reported being dismissed after being found HIV positive. Frederika (35), an employee at a clothing store, was dismissed after her employer and colleagues found out about her HIV status.⁵² Despite explaining how HIV is transmitted, the company refused to tolerate her condition. This clearly violates Article 38 of Law No. 39 of 1999 concerning Human Rights, which guarantees every citizen the right to decent work. The dismissal of PLHIV not only violates human rights but also contributes to structural poverty, which is difficult to resolve without fair and inclusive policies.⁵³

3. Career Restrictions

PLHIV often face obstacles in career advancement due to stigma. In the Philippines, where HIV is spreading fastest in the Asia-Pacific, legal protections exist, but enforcement remains weak.⁵⁴ Kevin (36), a call center employee in Cagayan de Oro, was diagnosed with HIV in March 2025.⁵⁵ Despite his good performance, he was forced to resign due to his health status. He lost his job, benefits, and promotion opportunities, which affected his self-esteem and prospects. A similar case involved Dion (born 1993), who worked for a marketing company in Jakarta. In 2018, he failed

⁵⁰ Holly Blake et al., "Voluntary HIV Testing and Counselling Initiatives in Occupational Settings: A Scoping Review," *International Journal of Environmental Research and Public Health* 22, no. 2 (2025): 1–23, <https://doi.org/10.3390/ijerph22020263>.

⁵¹ Fisher and Henrickson, "Are Statutory Protections Sufficient to Protect People Living with HIV Who Are Employed in the Medical Workplace?"

⁵² Iftanan Maitsa, Aritonang, and Oktilia, "Discrimination Experienced by People Living with HIV/AIDS (ODHA) at Sehat Panghuripan Sukowati Foundation, Sragen Regency."

⁵³ Vania Grace Sianturi, M. Syafii, and Ahmad Albar Tanjung, "Analisis Determinasi Kemiskinan Di Indonesia Studi Kasus (2016-2019)," *Jurnal Samudra Ekonomika* 5, no. 2 (2021): 125–33, <https://doi.org/10.33059/jse.v5i2.4270>.

⁵⁴ Elliott and Gold, "Protection against Discrimination Based on HIV/AIDS Status in Canada: The Legal Framework."

⁵⁵ "Philippines: Discrimination Against Workers with HIV," *Human Rights Watch*, 2018.

to become a permanent employee after a medical test revealed he was HIV positive, despite his excellent performance. He lost the chance to be promoted and to secure a permanent position.⁵⁶

The Impact of Negative Discrimination on the Lives of People with HIV and the Work Environment

1. Mental Health Disruption

Stigma and discrimination in the workplace make PLHIV vulnerable to stress and mental health disorders. According to Prof. Tjhin Wiguna (Universitas Indonesia), social pressure and lack of support lead to social isolation and depression. Many PLHIV feel anxious about losing their jobs or being unable to work due to their condition. A U.S. study of 2,800 PLHIV found that 36% experienced major depression and 15.8% had generalized anxiety disorders. In Indonesia, as of June 2024, there were 503,201 PLHIV, but only 217,482 were receiving antiretroviral (ARV) treatment.⁵⁷ A survey by Jaringan Indonesia Positif found that 19.2% of PLHIV discontinued ARV treatment due to stigma, and 15.9% experienced discrimination from healthcare workers in non-HIV facilities.⁵⁸

2. Decreased Work Productivity

People living with HIV (PLHIV) often experience reduced productivity due to frequent absences caused by illness or psychological stress. Disclosing HIV status can increase stress due to fear of discrimination. Without support from companies in the form of flexible work hours and health programs, the quality of human resources declines, and the work environment becomes unfavorable.⁵⁹ This results in economic losses, increased healthcare costs, and threatens business sustainability.⁶⁰ However, due to privacy concerns, companies rarely publish data on HIV-positive employees, making it difficult to document cases, though discriminatory practices are evident.⁶¹

⁵⁶ "Fired For HIV-AIDS," Cemara House, 2018.

⁵⁷ Deonisia Arlinta, "Stigma Against Workers with HIV/AIDS Triggers Mental Health Issues," 2019.

⁵⁸ "Backfire and a Total Disaster-Should People With HIV Have to Disclose Their Status When Visiting The Dentist?," BBC News Indonesia, 2024.

⁵⁹ Sultan, "HIV/AIDS and Its Impact on Productivity in Indonesian Workplaces."

⁶⁰ S. Bott et al., "Rewards and Challenges of Providing HIV Testing and Counselling Services: Health Worker Perspectives from Burkina Faso, Kenya and Uganda," *Health Policy and Planning* 30, no. 8 (2015): 964–75, <https://doi.org/10.1093/heapol/czu100>.

⁶¹ Haerul Anwar, "Understanding Work Productivity Among HIV-Positive Employees: An Exploration of Productivity in the Workplace," *Journal Creative Dynamics in Strategic Management* 06, no. 4 (2024): 55–60, <https://journalpedia.com/1/inde.php/dkms/index>.

3. Non-Inclusive Work Environment

An exclusive work environment worsens the situation for PLHIV. Social stigma discourages them from disclosing their HIV status, leading to anxiety and distress. Weak corporate policies exacerbate the situation, making PLHIV feel unsafe and unappreciated.⁶²

a) Social Stigma

Research by Tristante et al. (2022) found that social and internal stigma significantly increase anxiety and reduce work effectiveness.⁶³ A study by Korkmaz et al. (2023) in Turkey revealed that many PLHIV conceal their status due to an unsafe work environment, showing that stigma is not only personal but structurally embedded in workplace culture.⁶⁴

b) Weak Corporate Policies

An ILO-Gallup survey (2022–2023) showed that 60% of respondents supported mandatory HIV testing, and 40% were unwilling to work with PLHIV.⁶⁵ Few companies provide training or legal protection. This leads to chronic stress and reduces the work performance of PLHIV. Government regulation and strong company commitment are needed to protect the rights of PLHIV.⁶⁶

c) Harassment (Abuse)

PLHIV often face offensive comments and humiliating treatment. A study by Stefanovic et al. (2025) in the Indonesian Journal of Health Promotion found that stigma and harassment are strongly linked to increased depression and lower quality of life.⁶⁷ The more frequent the harassment,

⁶² Fitra Yani, Fatma Sylvana, and Anto J. Hadi, “Stigma Masyarakat Terhadap Orang Dengan HIV/AIDS (ODHA) Di Kabupaten Aceh Utara,” *Media Publikasi Promosi Kesehatan Indonesia (MPPKI)* 3, no. 1 (2020): 56–62, <https://doi.org/10.56338/mppki.v3i1.1028>.

⁶³ Titiek Djannatun et al., *Vulnerability of Young Workers to the Risk of HIV Infection and Access to Social Protection*, ed. Purwa Kurnia Sucahaya (Jakarta: International Labour Organization, 2023).

⁶⁴ Nevin KORKMAZ, Servet ÖZTÜRK, and Haydar SUR, “HIV-AIDS Stigma in the Workplace: A Qualitative Study in Türkiye,” *Journal of Health Systems and Policies* 5, no. 2 (2023): 121–34, <https://doi.org/10.52675/jhesp.1355273>.

⁶⁵ Anita Johan et al., *Prevention and Control of HIV/AIDS in the Workplace*, ed. dr. Anita Johan (Jakarta: International Labour Organization, 2022).

⁶⁶ International Labour Organization (ILO), *HIV and AIDS in the Workplace: A Survey of Attitudes, Perceptions and Practices in Indonesia* (2023).

⁶⁷ Sasmitaningtyas Prihasti, “World AIDS Day: Rampant Discrimination Against ODHA In The World Of Work,” *Never Okey*, 2022.

the greater the psychological impact and decline in workplace productivity.⁶⁸

Conclusion

This study reveals that legal protections for the labor rights of people living with HIV/AIDS (PLHIV) in Indonesia remain largely formalistic and have yet to fully address the substantive dimensions of justice. Although national regulations and international human rights instruments explicitly guarantee the right to work and prohibit discrimination, real-world practices show that PLHIV are still frequently subjected to employment rejection, termination, and career limitations solely due to their health status. These challenges are further compounded by widespread societal ignorance about HIV and the weak enforcement of existing legal frameworks.

From an Islamic legal perspective, such discriminatory treatment contradicts the principles of justice (*'adālah*) and the protection of life (*hifz al-nafs*), both of which are foundational to the objectives of Islamic law (*maqāṣid al-sharī'ah*). Islam upholds equality and human dignity, regardless of an individual's health condition. Accordingly, an integrative approach that harmonizes national legal norms with Islamic ethical values is essential to establishing a protection framework that is legally sound and morally transformative.

The primary contribution of this research lies in its proposal of a holistic model for protecting PLHIV's labor rights, grounded in the concept of substantive justice. This model is highly relevant to the development of inclusive labor policies. Its implications include the need for the state to reinforce anti-discrimination regulations, promote widespread public education to dismantle stigma, and embed Islamic justice values within organizational cultures. Moreover, this study sets the stage for future empirical research to support normative arguments with field-based data.

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⁶⁸ Claudio Stefanovic, Ika Febianti Buntoro, and Dickson Alan Legoh, "Quality of Life, Perceived Stigma, and Depression Among People Living with HIV / AIDS," *Jurnal Promosi Kesehatan Indonesia* 20, no. 2 (2025): 102–6, <https://doi.org/10.14710/jpki.20.2.102-108>.

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