

**JLPH:**
**Journal of Law, Politic
and Humanities**

E-ISSN: 2962-2816
P-ISSN: 2747-1985

<https://dinastires.org/JLPH> dinasti.info@gmail.com +62 811 7404 455

DOI: <https://doi.org/10.38035/jlph.v5i4>
<https://creativecommons.org/licenses/by/4.0/>

Vague Norm on HIV Status Disclosure of the Minister of Health Regulation Number 21 of 2013

Idza Dean Akira Calluella Putri¹, Zuhad Aji Firmantoro².

¹Faculty of Law, Al Azhar University Indonesia, South Jakarta, Indonesia, idzadacp@gmail.com.

²Faculty of Law, Al Azhar University Indonesia, South Jakarta, Indonesia, zuhad.aji@uai.ac.id.

Corresponding Author: idzadacp@gmail.com¹

Abstract: Indonesia has produced various health laws in dealing with different infectious diseases. Treatment of HIV and AIDS, which includes infectious diseases, is regulated in Minister of Health Regulation Number 21 of 2013. In accordance with Minister of Health Regulation Number 21 of 2013, it is stated that PLWH must disclose their HIV status to their sexual partners. On the other hand, the provision stating that PLWH must disclose their HIV status to their family is still ambiguous, making it challenging to apply in the treatment of HIV and AIDS. This article examines the problem of vague norm with the existence of an ambiguous article on HIV status disclosure in Minister of Health Regulation Number 21 of 2013. This article uses a normative legal research method through a legislative approach and an analytical approach. The results show that vague norms in Minister of Health Regulation Number 21 of 2013 related to the treatment of HIV status by PLWH to their families creates legal uncertainty and hampers the effectiveness of the treatment of HIV and AIDS. The problem of legal certainty in disclosing HIV status must be resolved so that the treatment of HIV and AIDS can run optimally. The vagueness of the material in this regulation makes it difficult to be applied consistently. To overcome this, it is recommended that the law be improved so that the treatment of HIV and AIDS in Indonesia can run more optimally and achieve the goal of “three zero” by 2030.

Keyword: Vague Norm, HIV Status Disclosure, The Treatment of HIV And AIDS.

INTRODUCTION

Law Number 17 of 2007 on the National Long-Term Development Plan 2005-2025 emphasizes the importance of health development to increase awareness of healthy living for all people, fulfill public health rights, and reduce mortality rates. Health development must be accompanied by supervision and community empowerment through promotive and preventive efforts. One of the leading health problems in Indonesia is HIV/AIDS, which is also a global challenge. The HIV epidemic is still ongoing and threatens many lives, ranging from individuals with risky behaviors to people around them. In addition to health impacts, HIV/AIDS also causes social, economic, and cultural problems, so it requires special handling and more attention to its control.

In 2023, the estimated number of people living with HIV (PLHIV) in Indonesia reached 515,455, down from 526,841 in the previous year. Despite the decline in the number of people living with HIV, the HIV epidemic is still ongoing and needs to be watched like an iceberg phenomenon.

Indonesia targets Three Zero by 2030, with the STOP strategy to achieve zero new HIV infections, zero AIDS-related deaths, and zero discrimination. The 95-95-95 target includes 95% of PLWH knowing their HIV status, 95% getting treatment, and 95% of those treated achieving viral suppression. Through government and community collaboration, it is expected to realize an HIV-free Indonesia by 2030 (Ministry of Health, 2023). Based on these data, more effective legal efforts are needed in addition to health efforts. Article 1(3) of The 1945 Constitution of the Republic of Indonesia of the Republic of Indonesia (The 1945 Constitution of the Republic of Indonesia) states that “Indonesia is a state of law” (Indonesian government, 1945b). This allows the government to create an adequate implementation regulatory system in the health sector.

Indonesia has produced various health law products to deal with communicable and non-communicable diseases. The treatment of HIV and AIDS, which are infectious diseases, has been regulated in Minister of Health Regulation Number 21 of 2013.

According to Minister of Health Regulation Number 21 of 2013, it is stated that PLWH must disclose their HIV status to their sexual partners. In contrast, the provision stating that PLWH must disclose their HIV status to their families is still ambiguous. PLWH stands for people with HIV and AIDS, where a person is said to be HIV positive and develop HIV. Most people think that HIV and AIDS are the same, but in fact, they are different. HIV stands for Human Immunodeficiency Virus, which is understood as the virus that causes AIDS. In contrast, AIDS stands for Acquired Immuno Deficiency Syndrome, which is a condition where a person's self-defense capabilities are reduced due to HIV entering the body (Regulation of the Indonesian Minister of Health, 2013). PLWH who struggle to live with HIV in themselves are often entangled in stigma in the community.

Many people think that PLHIV do not deserve to be accepted as normal human beings, and it is better to be ostracized to death for doing dirty and despicable deeds that cause them to end up as carriers of infectious diseases for people around them.

This makes it difficult for PLHIV to open up and adapt to society after testing HIV positive. Laws and regulations are not only binding so that everyone applies them and can be sanctioned. Laws and regulations also provide legal protection to all people bound by them as long as they fulfill their rights and obligations as stipulated in Article 28D, paragraph (1) of The 1945 Constitution of the Republic of Indonesia of the Republic of Indonesia (Indonesian government, 1945a).

Regardless of the conditions they experience, a PLHIV is still a human being who has the right to live like other people as stipulated in Article 28A of The 1945 Constitution of the Republic of Indonesia of the Republic of Indonesia (Indonesian government, 1945c). Therefore, PLHIV are also entitled to legal protection in order to protect their rights in community life. Legal protection is given to PLWH in order to play a maximum role in HIV and AIDS prevention as well as possible.

The definition of the treatment of HIV and AIDS is all efforts in the form of health promotion, prevention, examination, healing, and recovery with the aim of controlling transmission and reducing mortality so that the adverse effects of the epidemic can be overcome as much as possible.

Minister of Health Regulation Number 21 of 2013 regulates the legal protection of the confidentiality of the HIV status of PLWH. Still, PLWH often misuses legal protection to hide their HIV status from their families (Regulation of the Indonesian Minister of Health, 2013). Based on this, more binding legal provisions are needed for PLHIV to disclose their HIV status to their families and also for health workers to anticipate PLHIV who still hide their HIV status

from their families. Given the high stigmatization of PLHIV in the community, family participation is needed to assist PLHIV in undergoing health treatment and daily activities. PLHIV who conceal their HIV status for specific purposes can transmit HIV to people around them.

This becomes a problem in disclosing HIV status that hampers legal certainty so that the treatment of HIV and AIDS is not maximized (Educhannel, 2021). The issue of legal certainty in disclosing HIV status must be resolved so that the treatment of HIV and AIDS efforts are maximized according to health protocols.

The high rate of HIV/AIDS transmission is also influenced by low public knowledge about prevention and lifestyle factors. Usually, after taking an HIV test or during counseling, PLWH are encouraged to disclose their HIV status to their families so that they can assist in the process of assistance in healthcare efforts.

However, this decision is entirely up to the PLHIV. On the other hand, health workers who understand the importance of HIV disclosure are often unable to do much when PLHIV hide their HIV status from their families due to legal restrictions. Therefore, legal academics, legal practitioners, and lawmakers need to improve legal policies for PLHIV. Not only do criminal law and civil law need to be addressed, but health law also needs to be addressed in order to improve the health of the Indonesian people in the future.

So, the problem formulations in this study are as follows: First, the vague norm against disclosure of HIV status in Minister of Health Regulation Number 21 of 2013. Second, how the vague norm on the disclosure of HIV status in Minister of Health Regulation Number 21 of 2013 can affect the effectiveness of the treatment of HIV and AIDS in Indonesia

METHOD

This research uses a normative legal research method with a statutory approach and an analytical approach with an emphasis on legal certainty as a theoretical basis. The statutory approach is to assess the conformity of regulations with legal standards, and the analytical approach is to explore issues of normative vagueness and its impact on practical implementation.

The subject of this research is legislation, with the main focus on Minister of Health Regulation Number 21 of 2013. The research is conducted through a literature study that enables a comprehensive analysis of legal documents and literature related to the selected regulatory framework with research instruments in the form of legal texts, academic literature, and analytical tools for legal interpretation by reviewing the structure, language, and implications of the regulation, identifying ambiguities, and evaluating it based on Theory of legal certainty.

RESULTS AND DISCUSSION

The Position of Minister of Health Regulation Number 21 of 2013

Indonesia is a state of law that makes laws and regulations as guidelines to regulate the behavior of citizens. As a state of law, Indonesia aims to protect and ensure legal certainty for all citizens (Anugrahdwi, 2023). In the Preamble of The 1945 Constitution of the Republic of Indonesia, in the fourth paragraph, the ideals of the nation are stated to protect the entire Indonesian nation, promote public welfare, and educate the nation's life.

Efforts to achieve this general welfare include essential aspects such as health development, which is the foundation for the community to play an active role in national development and support Indonesia's credibility as a prosperous country with quality human resources in various aspects, one of which is health (Indonesian government, 1945d).

Health efforts must continue to be mobilized so that the community continues to play a role in development and improve Indonesia's credibility as a prosperous country with productive human resources and good health. Although laws and regulations in the health sector

already exist, there are still shortcomings in meeting the needs of all parties. Therefore, periodic evaluation and improvement of rules are needed to increase their effectiveness in society.

One of the regulations that needs to be considered is the treatment of HIV and AIDS, which is regulated in Minister of Health Regulation Number 21 of 2013 which serves as a legal guideline in HIV/AIDS treatment. This regulation covers prevention and treatment efforts through HIV testing, administration of antiretroviral drugs (ARVs), and comprehensive counseling.

This regulation was developed as a treatment to the increasing number of HIV/AIDS cases in Indonesia, which started as a low epidemic, then concentrated, and finally spread widely.

With this regulation, the government hopes to achieve “three zero,” which are no new HIV infections, no deaths from HIV, and no discrimination against PLWH (Regulation of the Indonesian Minister of Health, 2020).

Minister of Health Regulation Number 21 of 2013 not only applies to PLHIV but also covers the broader community through comprehensive health promotion, prevention, diagnosis, treatment, and rehabilitation.

This regulation is designed to reach various levels of society, both HIV-infected and non-HIV-infected, so that it is expected to create a supportive environment and reduce stigma against PLWH.

Minister of Health Regulation Number 21 of 2013 needs to be continuously evaluated in order to keep up with the development and needs of the community related to HIV/AIDS treatment. This is important considering the rate of spread of HIV/AIDS and the different service needs in each region.

This evaluation aims to ensure that the regulation is effective and supports the fulfillment of the health rights of all citizens (Indonesian AIDS policy, 2024). Minister of Health Regulation Number 21 of 2013 does not only cover PLWH in its implementation. The scope of Minister of Health Regulation Number 21 of 2013 is broader than that.

Minister of Health Regulation Number 21 of 2013 covers individuals, families, and communities, whether they have HIV or not, through health promotion, prevention, diagnosis, treatment, and rehabilitation in a comprehensive and sustainable the treatment of HIV and AIDS (Regulation of the Indonesian Minister of Health, 2013).

Effectiveness of the treatment of HIV and AIDS requires the participation of the community, government, and related institutions to reduce the number of cases and improve the quality of life of PLWH.

Through improvements in the health care system and more intensive socialization, the community is expected to have a better understanding of HIV/AIDS and the importance of comprehensive prevention efforts. This effort is expected to realize the general welfare in accordance with the ideals of the Indonesian nation as stated in The 1945 Constitution of the Republic of Indonesia.

Protection of Confidentiality of HIV Status in Minister of Health Regulation Number 21 of 2013

Simanjuntak argues that legal protection is every government effort to protect citizens in order to ensure certainty in order to prevent violations of rights as citizens and impose sanctions for those who violate them according to applicable regulations (JDIH Sukoharjo, 2022).

Satjipto Raharjo also suggests the existence of human rights that coexist with legal power in allocating to a person's actions to protect their interests (Kumparan, 2023). This is in line with Article 28D, paragraph (1) of The 1945 Constitution of the Republic of Indonesia, which refers to the human right to protection considering that while carrying out their role in the treatment of HIV and AIDS, PLHIV also need legal protection to fortify themselves from rights violations that often occur due to high HIV stigma.

Therefore, the protection of confidentiality of HIV status is given to PLHIV so that PLHIV can keep their HIV status confidential and prevent their health information from being shared with others without their knowledge and consent because their HIV status is confidentiality and personal dignity for PLHIV when conducting tests and undergoing treatment.

HIV status is part of PLWH's health data and information in the form of medical records, medical secrets, or patient health secrets (Elsam, 2020). PLWH are patients with HIV/AIDS who receive health services from various health workers, including doctors and nurses. Protection of confidentiality of HIV status provides a sense of security for PLWH in a society that is vulnerable to HIV stigma and prevents violations of PLWH's rights by setting limits on HIV and AIDS prevention. PLHIV plays a role in preventing HIV transmission through personal health care, disclosing HIV status to sexual partners and health workers, complying with treatment, and contributing to HIV and AIDS prevention efforts with the government and society (Regulation of the Indonesian Minister of Health, 2013).

Stigma against HIV is more severe than stigma against ex-prisoners or tuberculosis, and the government has a vital role in the treatment of HIV and AIDS through consistent programs and regulations. However, health promotion programs and legal guidelines have not been fully understood by the community, so improvements are needed in their implementation. The treatment of HIV and AIDS is a shared responsibility, including the government.

Protection of the confidentiality of HIV status for PLWH is essential to prevent stigma and discrimination. The community needs to be given a better understanding of HIV/AIDS to reduce stigma. In contrast, PLWH need legal protection in health services to support the success of the treatment of HIV and AIDS programs in Indonesia.

Vague Norm in Minister of Health Regulation Number 21 of 2013

As explained earlier, Minister of Health Regulation Number 21 of 2013 has initiated various provisions in the treatment of HIV and AIDS. Still, there is vague norm in this regulation that hampers the implementation of its requirements for related parties and makes it ineffective. Legislation is a written regulation that regulates legal subjects with legal norms in it, formed by state institutions or authorized officials, following the procedures of the legislative system (Indonesian government, 2011).

Legislation is likened to the building of a norm system that includes layers of legal norms that bind everyone to the survival of society. Therefore, laws, regulations, and standards cannot be separated.

Normative legal research focuses on norms in legislation and legal issues such as vacancies, vagueness, or conflicts of law that can cause uncertainty. In contrast to empirical research, normative research examines existing norms or new norm ideas.

Legislation functions as a limitation of power, a means of reforming society, and a means of regulating the interests of society, with the aim of providing justice and legal certainty. Legal norms are binding and coercive and resolve conflicts of interest. Although Minister of Health Regulation Number 21 of 2013 regulates HIV/AIDS, vague norm hinders its implementation (Rahmat et al., 2022).

Norm vagueness in legislation occurs when regulations are unclear, causing doubts about their legal force and existence. This vagueness requires further interpretation because the fact of multi-interpretation articles in laws and regulations can hinder the implementation and enforcement of the law. Norm vagueness can result in articles that are difficult to apply due to improper language or drafting.

Gustav Radbruch's theory of legal certainty states that regulations must be formulated clearly to avoid misinterpretation and facilitate implementation because they regulate the interests of all parties and must be obeyed in order to realize legal certainty (Ananda, 2021).

Vague norm in Minister of Health Regulation Number 21 of 2013 is found in Articles 21 and 53. Article 21, paragraph (3) of Minister of Health Regulation Number 21 of 2013 states that information related to the health condition of PLWH must be kept confidential and can be disclosed to the closest family if the person concerned is incompetent (Regulation of the Indonesian Minister of Health, 2013). The capacity to perform legal acts is measured by the age of maturity and soundness of mind (Bimasakti, 2024).

Therefore, this article can be interpreted as saying that if PLHIV is not mature or in a state of mind, then the family can only be allowed to accompany PLHIV, which shows that disclosure of HIV status to the family of PLHIV itself still has to consider a number of things and enable the disclosure of HIV status not to be carried out if PLHIV are not in the state as described.

Confidentiality is the provision to keep confidential all matters relating to one's health information (Spiritia, 2023). The principle of confidentiality requires health workers to maintain the confidentiality of information related to the disease and medical actions of PLHIV, except with the permission of PLHIV.

Health information may only be used for treatment and must be obtained with the voluntary consent of PLHIV, either oral or written. This consent becomes concrete when health workers take action against PLHIV (Indonesian Ministry of Health, 2021). Legislation can influence the decision to keep HIV status confidential.

This article will direct PLHIV and health workers not to disclose HIV status to PLHIV families, except in certain situations related to the incompetence of PLHIV, which will complicate the position of adult and unmarried PLHIV.

The health rights of PLHIV are related to their role in the treatment of HIV and AIDS, and this right gives them the power to act in accordance with the provisions in the legislation (Afrianedy, 2020). Individual rights are based on the freedom to play their role in society without hindrance or intervention. The principle of autonomy recognizes the right of PLHIV to refuse care, treatment, or other health interventions, even if they are beneficial to the individual (Emilia et al., 2023).

This includes the right of PLHIV to refuse a health worker's request for permission to disclose their HIV status to their family (Humas UGM, 2023).

Rights relate to roles or functions that can be acquired, while obligations are obligations to do something or prohibitions not to do something. Obligations are considered duties or legal requirements that the obligor must carry out.

Although PLWH has the right to privacy, the family has the right to know their HIV status because HIV/AIDS is a contagious disease. Article 53 paragraph (1) of Minister of Health Regulation Number 21 of 2013 requires PLWH to disclose their HIV status to sexual partners and health workers for HIV and AIDS prevention (Regulation of the Indonesian Minister of Health, 2013). The article in Minister of Health Regulation Number 21 of 2013 does not include the obligation of PLHIV to disclose their HIV status to their family, even though the family is at risk of infection if they do not know their status.

This article is not practical for PLHIV, who are not married, because not all sexual partners are legal partners and are part of the family. Protection of confidentiality of HIV status that is not supported by explicit legal provisions may cause PLHIV to neglect their obligations and abuse privacy to hide their HIV status.

This provision needs to be improved by adding an obligation for PLHIV to disclose their HIV status to family or trusted family members, considering the family's right to protect themselves from HIV transmission.

The ambiguous article in the regulation contradicts the systematics of laws and regulations stipulated in Article 5 of Law Number 12/2011, which includes various principles such as clarity of purpose, appropriate forming institutions or officials, compatibility between types, hierarchy, and content material, and the principle of clarity of formulation (Indonesian government, 2011).

These principles ensure that laws and regulations have clear objectives, can be implemented, are helpful for the community, and are easy to understand. Article 3 of Minister of Health Regulation Number 21 of 2013 states that the purpose of the regulation is to reduce new infections and mortality and discrimination against PLWH, as well as to create a quality life for PLWH and overcome the socioeconomic effects of HIV/AIDS (Regulation of the Indonesian Minister of Health, 2013).

The purpose of Minister of Health Regulation Number 21 of 2013 is clear, but this regulation needs to fulfill the principle of enforceability. Article 21 paragraph (3) and Article 53 paragraph (1), which do not clearly regulate the confidentiality of HIV status and the obligation to disclose HIV status to families of PLWH, contradict the objective of reducing HIV infections and deaths, thus not meeting the principle of clarity of formulation. The vagueness of the article may lead to multiple interpretations and hinder effective implementation.

Legal principles play an essential role in ensuring that regulations can be clearly understood and applied in accordance with the legal function of protecting and regulating the interests of society (STIH Painan, 2021).

In pouring out the content material of statutory regulations, lawmakers must consider the legal principles listed in Article 6, paragraph (1), of Law Number 12/2011, such as the principles of humanity, nationality, justice, and the principles of order, and legal certainty. These principles aim to protect human rights, create social justice, and maintain community harmony by taking into account the diversity and interests of all elements of the nation (Indonesian government, 2011).

Article 21 and the ambiguous Article 53 in Minister of Health Regulation Number 21 of 2013 do not fulfill the principle of protection because the false peace with the protection of confidentiality of HIV status that is misused by PLHIV and unknowingly endangers other people besides PLHIV who receive legal protection will not prevent families and communities from the risk of HIV transmission.

The protection of the confidentiality of HIV status that PLHIV abuses indicates vague norm from the ambiguity of laws and regulations that are abused by certain parties for specific reasons and purposes (Remaja, 2022). The two articles also do not fulfill the principles of order and legal certainty.

The ambiguity in the articles cannot provide legal certainty that the protection of confidentiality of HIV status will be applied correctly and does not violate the rights of others while protecting the right of PLHIV to keep their HIV status confidential (Rahmani et al., 2024).

The two articles also do not fulfill the principles of order and legal certainty. The ambiguity in the articles cannot provide legal certainty that the protection of confidentiality of HIV status will be applied correctly and does not violate the rights of others while protecting the right of PLHIV to keep their HIV status confidential (Rahmani et al., 2024).

The two articles also do not fulfill the principles of balance and harmony. If balancing personal and collective interests is done by misusing the protection of confidentiality of HIV status so as to protect the interests of PLHIV and ignore the interests of those around them, then it is equivalent to using the power of law for the benefit of a few parties.

PLHIV must understand the risks involved in keeping their HIV status secret and discern which parties should be informed and which should not. At the very least, PLHIV should disclose their HIV status to sexual partners, family, health workers, and authorities for law enforcement purposes.

The need for health assistance by the family for PLHIV, which is not clearly outlined in the provisions of Minister of Health Regulation Number 21 of 2013, shows that the regulation has not fully met the needs of PLHIV. Theory of legal certainty by Jan M. Otto explains that laws and regulations must adjust to the needs of each party to achieve legal certainty.

Legal certainty is also based on people's understanding of the applicable law (Ananda, 2021). Legal certainty will not be achieved if the laws and regulations cannot adjust to the needs of PLWH, as parties who have a role in the treatment of HIV and AIDS must carry it out (Qamar & Rezah, 2020).

Legal lag in supporting national development is often caused by regulations not in line with the development of society. Ineffective regulations hinder the implementation of the law and weaken its existence. Discrepancies between field procedures and regulations, as well as disharmony between laws, can impede the operation of the law. People need to increase their legal awareness to understand their rights. PLHIV has the right to make health decisions consciously and without coercion.

However, in risky situations such as HIV transmission, health workers must remain professional and protect the common good. All individuals have the right to confidentiality of health information as per Law Number 17 of 2023. Still, in certain situations, the obligation to protect others may require disclosing information for the common good.

PLHIV should not abuse the protection of the law to hide their HIV status for their benefit. Disclosure of HIV status must be regulated to effectively apply the law, ensure mutual protection, and support a sustainable legal system (Harjono, 2022). Specific laws and regulations override general laws and regulations, indicating that laws and codes are not always the main center of juridical guidance (Sokonagoro, 2023).

HIV is a health issue, but it does not mean that Law Number 36 of 2009 and Law Number 17 of 2023 related to health can fully resolve the issue of HIV. HIV is an infectious disease that requires special handling. Unlike tuberculosis, which can still be cured, HIV cannot be cured, and HIV treatment is more complex than tuberculosis treatment, so policy regulations regarding HIV must be made as clear and coherent as possible to prevent legal uncertainty.

The treatment of HIV and AIDS requires special regulations, such as Minister of Health Regulation Number 21 of 2013, for effective treatment. All general and specific rules should reflect the principles of justice and equality in the eyes of the law.

Although relatively new compared to criminal or civil law, health law remains vital in regulating human health and community life. Health law should be considered equal to other laws, as it protects human life (SIP Law Firm, 2023). Health is a crucial indicator of Indonesia's welfare, so health laws cannot be ignored, and so can the mobility of society. Health law is an extension of medical law and medical law, a new scientific branch within the scope of law and health.

Health law is often considered the same as medical law, even though the scope of health law is broader. In addition to involving health workers and patients, health law also includes society and government. Health law is reflected in health regulations and various applicable rules and laws, including administrative, criminal, and civil law (Heylaw, 2023).

Health law includes written laws, doctrines, consensus, cases, conventions, treaties, and expert opinions. Health workers must comply with regulations to ensure legality and legal certainty.

Health law protects public health rights and improves services and the efficiency of health management. The government must defend PLHIV and the public interest, and legal products must undergo due diligence to ensure suitability before being passed (Nursobah, 2021). Due diligence in forming laws and regulations is essential to ensure that legal products are effective and follow the principles of sound formation.

Health law regulates the rights and obligations of health service providers and recipients by considering the balance between the interests of individuals and society, including physical and mental benefits and risks. Legal principles are the basis for applying law to realize material truth (Gazali, 2022).

The regulation of legal norms and health codes of ethics aims to protect the interests of PLWH and improve the quality of the health worker profession. Administrative law also ensures health services run well and creates legal protection that supports public health.

Barriers faced in the implementation of Minister of Health Regulation Number 21 of 2013 are not only lack of adherence to ARVs, treatment support, and refusal of HIV testing (Magvira, 2020). However, ineffective disclosure of HIV status, both in terms of action and substance, is also a problem in its implementation. Health workers must provide information related to PLHIV's health, including their HIV status, to their families. Still, they are bound by legal restrictions that require them to keep the information confidential.

According to Article 322, paragraph (1) of the Criminal Code, disclosing HIV status without the consent of PLHIV is a criminal offense. However, if PLHIV use this confidentiality for the wrong purpose, it can have adverse effects not only on themselves but also on their families and neighborhoods (Indonesian government, 1966). PLHIV are directed to take ARVs (antiretrovirals) to prolong their lives and not to cure them.

ARVs are drugs given to PLWH during HIV treatment that must be taken for life. If the level of PLWH's adherence to the treatment process is low, resistance will occur, and mortality rates will increase. Therefore, PLWH must be given support during treatment.

HIV infection is integrated into a cell's DNA and lasts a lifetime, so PLHIV must fully understand its condition. However, many PLHIV have difficulty accepting this reality, which impacts their treatment adherence. Family involvement is often limited as PLHIV hide their HIV status despite the need for assistance. Although there are regulations such as Minister of Health Regulation Number 21 of 2013, the implementation is still not maximized.

Health workers are essential in treating PLHIV, so an approach involving the family is necessary. In addition, NGOs and community leaders also play a role in supporting isolated PLWH. The effectiveness of the treatment of HIV and AIDS programs must be adjusted to the epidemic conditions and be accessible to high-risk groups and PLWH communities (Susilawati, 2020).

The lack of HIV and AIDS countermeasures and anticipatory actions from those who have the authority leads to high cases of HIV/AIDS spread. Countermeasures in providing information must be done first to increase public awareness.

Promotion of activities carried out in HIV and AIDS prevention involves education through counseling and community empowerment regarding the dangers of HIV/AIDS. There are two main focuses, namely, the community at risk of HIV, which includes all people as well as HIV-positive individuals. This includes providing information about the basis of HIV and how it is transmitted (Susilawati & Adianto, 2023). Every the treatment of HIV and AIDS requires legal provisions and protection.

Based on the high number of HIV cases, massive HIV-AIDS treatment efforts are needed to achieve the global goal of ending the AIDS pandemic by 2030. The treatment of HIV and AIDS policy through treatment, care, and support is an effort to reduce the risk of HIV transmission and not to interfere with the condition of HIV-infected people to get better.

Also, the quality of life of PLWH can be improved. HIV and AIDS policies lead to treatments and actions to overcome problems in the implementation of the treatment of HIV and AIDS efforts and become a solution to the increasing number of HIV/AIDS and HIV and AIDS prevention guidelines (Hanifah & Kriswibowo, 2023).

Socialization to families and communities needs to be carried out in efforts to reduce and prevent HIV/AIDS (Faristiana et al., 2023). Government policies that are not well understood by PLWH and their families can hinder HIV and AIDS prevention efforts. Many people think that HIV is only transmitted through sexual intercourse or the use of alternating needles. In contrast, HIV can also be transmitted through infected mothers during pregnancy, childbirth, or breastfeeding, as well as through the use of piercing tools, tattoos, blood transfusions, or open wounds with sufficient media.

After testing positive for HIV, PLWH must take ARVs for life and undergo treatment and counseling, with family support being critical to maintaining stability. Families of PLHIV play an essential role in disclosing their HIV status and accompanying PLHIV on treatment.

They are also an integral part of the treatment of HIV and AIDS. According to Tika Surya Atmaja from the AIDS NGO Forum, family support makes PLWH more active in counseling and providing knowledge to prevent HIV transmission to the community (Spiritia, 2021).

HIV cases in Indonesia continue to increase and are often poorly recorded, like the iceberg phenomenon, with many cases going undetected. PLHIV usually finds out their status too late due to a lack of awareness of HIV testing. Many hide their status for fear of being stigmatized or ostracized.

Therefore, the ambiguous provisions in Minister of Health Regulation Number 21 of 2013 must be improved to make it more transparent and binding. Laws should provide prescriptive justification and maintain consistency of policy norms and regulations (Ifitah et al., 2023). Evaluation of more detailed and operational rules is essential to keep up with social developments and provide better protection for PLHIV and the community.

People demand that the law always protect their rights amidst directive and restrictive legislation to achieve prosperity (Supriyadi, 2023). Written law is created not only to be understood by academics in law but also by all people as legal subjects who affirm their responsibilities in fulfilling their rights and obligations (Winarno et al., 2021).

At the level of legislation, theoretically and practically, there often needs to be a clear separation between rights and responsibilities, which causes many parties who should obey the law to fall into legal problems. The lack of clarity in legal guidelines and uncertainty in law enforcement often creates disorder. Norms that do not limit the procedures or provisions that must be carried out can make regulations ineffective or even ambiguous and cannot be adequately understood.

The times demand the integration of legal norms to maintain the integrity of the legal system. Law is not the end goal in this matter but a tool to achieve a greater goal, namely the protection of individual rights and the welfare of society. The government must continuously review and improve existing regulations, especially if they must be more effectively applied in the community. In the context of the treatment of HIV and AIDS, a good understanding of the policy by PLWH and their families is the key to success.

The increase in HIV/AIDS cases requires a clear and directed policy focusing on prevention, care, and appropriate treatment by the provisions of the law. The policy must be comprehensive, with solid regulations ensuring adequate individual rights protection. Improvements to Minister of Health Regulation Number 21 of 2013 are needed so existing policies can be implemented consistently, fulfill the principles of justice, provide tangible benefits, and provide better legal certainty in treatment to HIV/AIDS in Indonesia (Cholih et al., 2022).

CONCLUSION

Minister of Health Regulation Number 21 of 2013 on HIV and AIDS needs to be evaluated and improved because vague norm contained therein makes it difficult for effective and optimal implementation. Improvements needed include provisions related to the principle of confidentiality and disclosure of HIV status, especially in Article 21 paragraph (3) and Article 53 paragraph (1), to provide more space for health workers to inform PLHIV's HIV status to the family if PLHIV does not do so.

The vagueness and legal weaknesses in this regulation make the law less binding so that the protection of the confidentiality of HIV status can be abused at the expense of other people's rights. As a country of law, Indonesia must ensure that existing health regulations provide legal certainty and support achieving the “three zero” goal by 2030.

Health promotion should also be encouraged to provide HIV/AIDS knowledge and overcome HIV stigma in the community. The government as the regulator and Regional Representatives Council as the legislator must improve Minister of Health Regulation Number 21 of 2013 so that the treatment of HIV and AIDS can run optimally. Suppose the government can reach PLWH and the community well and unite them through a well-thought-out health program by constantly referring to the legislation in force. In that case, Indonesia can fight HIV/AIDS and be free from the HIV epidemic.

REFERENCE

- Afrianedy, R. (2020). Penghormatan Terhadap Hak-Hak Individu Oleh Pemerintah. <https://palegon.go.id/artikel/254-penghormatan-terhadap-hak-hak-individu-oleh-pemerintah-09-08#:~:text=Menurut Satjipto Rahardjo%2C hak adalah,angka kepentingan tersebut%5B1%5D>
- Ananda. (2021). Teori Kepastian Hukum Menurut Para Ahli. Gramedia.Com. <https://www.gramedia.com/literasi/teori-kepastian-hukum/>
- Anugrahdwi. (2023). Makna Indonesia Sebagai Negara Hukum. Pascasarjana.Umsu.Ac.Id. <https://pascasarjana.umsu.ac.id/makna-indonesia-sebagai-negara-hukum/>
- Bimasakti, M. A. (2024). Batasan Tindakan dalam Hukum Administrasi Pemerintahan dan Perbuatan Dalam Hukum Perdata Oleh Pemerintah. Ptun-Makassar.Go.Id. <https://ptun-makassar.go.id/batasan-tindakan-dalam-hukum-administrasi-pemerintahan-dan-perbuatan-dalam-hukum-perdata-oleh-pemerintah/>
- Cholique, S. S., Viraticha, S., & Qilsy, F. R. M. (2022). Upaya Penanggulangan HIV AIDS Di Yogyakarta. *Multidisciplinary Journal*, 5(2), 41. <https://doi.org/10.19184/multijournal.v5i2.43604>
- Educhannel. (2021). Problematika. <https://educhannel.id/artikel/umum/problematika.html>
- Elsam. (2020). Status HIV Adalah Status Kesehatan: Polisi Tidak Boleh Menyebarkan Sembarangan. Elsam.Or.Id. <https://www.elsam.or.id/siaran-pers/status-hiv-adalah-status-kesehatan-polisi-tidak-boleh-menyebarkan-sembarangan>
- Emilia, N. L., Samutri, E., Mu'awanah, Sarman, J. N. R., Nurfitriani, Purnomo, H., Tampake, R., Yulitasari, B. I., Veronica, A., Pesak, E., Hesty, Erlin, F., Silfia, A., Puswati, D., & Daryanto. (2023). Bunga Rampai Etika dan Hukum Kesehatan. Media Pustaka Indo.
- Faristiana, A. R., Oktafiana, H., Widarto, H. S., & Akyunina, Q. (2023). Upaya Penanggulangan dan Pencegahan Penyakit HIV/AIDS Bagi Masyarakat di Desa Bungkok. *Jurnal Pengabdian Masyarakat Indonesia (JPMI)*, 2(3), 82–94. <https://doi.org/10.55606/jpmi.v2i3.2491>
- Gazali. (2022). Pengantar Ilmu Perundang-Undangan. Sanabil Publishing.
- Hanifah, L., & Kriswibowo, A. (2023). Kebijakan Penanggulangan HIV/Aids dalam Perspektif Health Policy Triangle Analysis di Kota Surabaya. *AL-MANHAIJ: Jurnal Hukum Dan Pranata Sosial Islam*, 5(1), 961–970. <https://doi.org/10.37680/almanhaj.v5i1.2827>
- Harjono, D. K. (2022). Akibat Hukum Dan Kekaburan Norma Dalam Pengaturan Undang-Undang Tentang Tanggung Jawab Sosial Perseroan Terbatas. *Veritas et Justitia*, 8(2), 444–460. <https://doi.org/10.25123/vej.v8i2.5742>
- Heylaw. (2023). Hukum Kesehatan: Definisi, Ruang Lingkup, Dasar Hukum, dan Asas. Heylaw.Id. <https://heylaw.id/blog/hukum-kesehatan>
- Humas UGM. (2023). Otonomi vs Paternalisme: Mana yang Lebih Baik? Fkkmk.Ugm.Ac.Id. [https://fkkmk.ugm.ac.id/otonomi-vs-paternalisme-mana-yang-lebih-baik/#:~:text=“Dalam prinsip otonomi%2C dokter mempunyai,%2C” terang Prof. Hans Iftitah, A., Purwoto, A., Kurniawan, Manullang, H., Solapari, N., Esther, J., Saragih, G. M., El-Hada, N. I., Rosyadi, I., Yetti, Mastoah, S., Usman, R., Diharjo, N. N., Harefa, S., & Hidayat, D. N. \(2023\). Pengantar Ilmu Hukum. Sada Kurnia Pustaka.](https://fkkmk.ugm.ac.id/otonomi-vs-paternalisme-mana-yang-lebih-baik/#:~:text=“Dalam prinsip otonomi%2C dokter mempunyai,%2C” terang Prof. Hans Iftitah, A., Purwoto, A., Kurniawan, Manullang, H., Solapari, N., Esther, J., Saragih, G. M., El-Hada, N. I., Rosyadi, I., Yetti, Mastoah, S., Usman, R., Diharjo, N. N., Harefa, S., & Hidayat, D. N. (2023). Pengantar Ilmu Hukum. Sada Kurnia Pustaka.)

- Indonesian AIDS policy. (2024). Penanggulangan HIV dan AIDS. <https://www.kebijakanidsindonesia.net/id/dokumen-kebijakan/download/17-peraturan-pusat-national-regulation/361-permenkes-ri-no-21-tahun-2013-tentang-penanggulangan-hiv-dan-aids>
- Indonesian government. (1945a). 28D ayat (1) UUD 1945.
- Indonesian government. (1945b). Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 1 ayat (3).
- Indonesian government. (1945c). Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 28A.
- Indonesian government. (1945d). Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pembukaan (Preamble).
- Indonesian government. (1966). Kitab Undang-Undang Hukum Pidana, Pasal 322 ayat (1).
- Indonesian government. (2011). Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan.
- Indonesian Ministry of Health. (2021). Pedoman dan Standar Etik Penelitian dan Pengembangan Kesehatan Nasional. Lembaga Penerbit Badan Penelitian dan Pengembangan Kesehatan (LPB).
- JDIH Sukoharjo. (2022). Pengertian Perlindungan Hukum dan Cara Memperolehnya. [Jdih.Sukoharjokab.Go.Id. https://jdih.sukoharjokab.go.id/berita/detail/pengertian-perlindungan-hukum-dan-cara-memperolehnya](https://jdih.sukoharjokab.go.id/berita/detail/pengertian-perlindungan-hukum-dan-cara-memperolehnya)
- Kumparan. (2023). Pengertian Perlindungan Hukum Menurut Para Ahli dan Jenisnya. Kumparan.Com. <https://kumparan.com/pengertian-dan-istilah/pengertian-perlindungan-hukum-menurut-para-ahli-dan-jenisnya-20zhKhbmUBh/1>
- Magvira, R. (2020). Implementation On Regulation Of Ministry Of Health Number 21 Of 2013 About Prvention Of HIV/AIDS In Work Area Of Talise Public Health Center In Mantikulore Subdistric. *Preventif: Jurnal Kesehatan Masyarakat*, 11(1), 22–37. <https://doi.org/10.22487/preventif.v11i1.50>
- Ministry of Health. (2023). Laporan Kinerja 2023 Direktorat Pencegahan Penyakit Menular. [Kemkes.Go.Id. https://p2p.kemkes.go.id/wp-content/uploads/2024/02/Lapkin-2023-P2PM_16022024.pdf](https://p2p.kemkes.go.id/wp-content/uploads/2024/02/Lapkin-2023-P2PM_16022024.pdf)
- Nursobah, A. (2021). Pengujian Peraturan Perundang-Undangan di Bawah Undang-Undang. <https://kepaniteraan.mahkamahagung.go.id/prosedur-berperkara/1752-pengujian-peraturan-perundang-undangan-di-bawah-undang-undang>
- Qamar, N., & Rezah, F. S. (2020). Ilmu dan Teknik Pembentukan Peraturan Perundang-Undangan. CV. Social Politic Genius (SIGn).
- Rahmani, R., Djatmika, P., & Madjid, A. (2024). Implikasi Yuridis Kekaburan Norma Tindak Pidana Penghinaan Presiden Dan/Atau Wakil Presiden. *Klausula (Jurnal Hukum Tata Negara, Hukum Adminitrasi, Pidana Dan Perdata)*, 3(1), 1. <https://doi.org/10.32503/klausula.v3i1.4082>
- Rahmat, P. B., Widhiyanti, H. N., & Anggraini, E. (2022). Kekaburan Batasan Makna Pemasaran Dalam Transaksi Jual Beli Apartemen Dengan Sistem Pre Project Selling. *Masalah-Masalah Hukum*, 51(1), 82–94. <https://doi.org/10.14710/mmh.51.1.2022.82-94>
- Regulation of the Indonesian Minister of Health. (2013). Peraturan Menteri Kesehatan Nomor 21 Tahun 2013 tentang Penanggulangan HIV Dan AIDS.
- Regulation of the Indonesian Minister of Health. (2020). Peraturan Menteri Kesehatan Nomor 1 Tahun 2020 tentang Tata Cara Pembentukan Peraturan Perundang-undangan Bidang Kesehatan di Lingkungan Kementerian Kesehatan, Pasal 1 angka 7.
- Remaja, I. N. G. (2022). Kekaburan Pasal 54, 112, 117, 122, Dan 127 Undang-Undang Narkotika, Pengaruhnya Terhadap Penegakan Hukum. *Kertha Widya*, 10(1), 1–17. <https://doi.org/10.37637/kw.v10i1.1032>

- SIP Law Firm. (2023). Definisi dan Pengertian Hukum Kesehatan. Siplawfirm.Id. <https://siplawfirm.id/definisi-dan-pengertian-hukum-kesehatan/?lang=id>
- Sokonagoro, R. S. (2023). Asas-Asas Hukum Dalam Teori Dan Praktek. <https://hukum.jogjakota.go.id/detail/index/26916>
- Spiritia. (2021). Cegah Penularan HIV/AIDS, Ini Bedanya ODHA Dulu dan Sekarang. Spiritia.or.Id. <https://spiritia.or.id/informasi/detail/322>
- Spiritia. (2023). Konfidensialitas Dalam Sarana Medis. Spiritia.or.Id. <https://spiritia.or.id/informasi/detail/28>
- STIH Painan. (2021). Tujuan Dan Fungsi Hukum Oleh Dr. Chaerul Amir, SH., MH. Stih-Painan.Ac.Id. <https://stih-painan.ac.id/tujuan-dan-fungsi-hukum-oleh-dr-chaerul-amir-sh-mh/>
- Supriyadi, A. (2023). Telaah Terhadap Norma Gratifikasi Dengan Modus Operandi Pemberian Kenaikan Jabatan. ADIL: Jurnal Hukum, 13(1), 61–77. <https://doi.org/10.33476/ajl.v13i1.1980>
- Susilawati, & Adiinto. (2023). Collaborative Governance Dalam Penanggulangan HIV/AIDS di Kota Pekanbaru. Jurnal Riset Rumpun Ilmu Sosial, Politik Dan Humaniora, 3(1), 35–50. <https://doi.org/10.55606/jurrih.v3i1.2243>
- Susilawati, E. (2020). Impelementasi Kebijakan Penanggulangan HIV/AIDS pada Dinas Kesehatan Kabupaten Melawi. JPASDEV: Journal of Public Administration and Sociology of Development, 1(1), 1. <https://doi.org/10.26418/jpasdev.v1i1.41541>
- Winarno, A., Sugiri, B., & Cholil, Y. (2021). Kekaburan Norma dalam Pasal 55 Undang-Undang Nomor 24 Tahun 2011 Tentang Badan Penyelenggaraan Jaminan Sosial. Media Iuris, 4(3), 341. <https://doi.org/10.20473/mi.v4i3.29023>.