



CHAPTER IV

FINDINGS AND DISCUSSION

A. Findings

1. The Condition of Research Location

This chapter will discuss about geographical condition and population in Hulu Langat Selangor Darul Ehsan. It is related to the obligation of HIV test before marriage, because it is influence to the society about this rule.

a. Geographical Condition

Hulu Langat is a district and also a parliamentary constituency located between Kuala Lumpur and Putrajaya. Being located in the southeast corridor of the Klang Valley and is bordered by:

1. Persekutuan Kuala Lumpur and Gombak Region in the Northwest;
2. Petaling in the west;
3. Sepang in the Southwest;
4. State of Pahang in the North-East;
5. Negeri Sembilan in the South and East.

Hulu Langat is the fifth largest district in Selangor State with an area of 82.944 hektare square kilometres. Population centers, such as Cheras and Ampang effectively became suburbs of the greater metropolitan area (both Cheras and Ampang are community now divided administratively between Kuala Lumpur Federal Territory and Selangor State).

Geographically, this region is close to Kuala Lumpur and Putrajaya. Kuala Lumpur is the federal capital and the largest tourist destination in Malaysia. There are some of the world's cheapest 5-star hotels, impressive shopping districts, even some of nature's wonders just an hour away that make this a dynamic city. A lot of promiscuity

and easily interact with general public in a big city. With this geographical position, it may influences to the spread of HIV easily.

b. Population And the social condition

The origin of inhabitants in this area are Malay from Minangkabau. In addition the attendance of Malay and Javanese ethnic there are also Mendailing. Total population by number of religion:⁵⁰

Total Population by Number of Religion

Religion	Total Number
Muslim	57.9%
Buddhist	24.4%
Hindu	11.6%
Christian	3.8%
Chinese Ethnic Religion	0.5%
Other religion	1.4%
Non-religion	0.4%

Table 1.2 Population

The population of Hulu Langat Selangor majority is influenced by those of Johor, Minangkabau, and Mandailing. The population of Hulu Langat Selangor is 1,156,600 people, with this society condition majority of them are Moslem. In the Islamic community in Malaysia is more dominant use Shafi'i fiqh. It gives

⁵⁰Population and Housing Census of Malaysia" (in Malay and English). Department of Statistics, Malaysia, article. Accessed on 26th of February 2015 at 10:27AM.

deep influence to the thinking and practice of Islamic law itself. The scholars give a legal opinion based on the thought Shafi'i fiqh.

Shafi'i scholar has become the principle of legal education since the emergence of Islam at 1 H / 7 M.⁵¹ Education in Malaysia is an effort to develop individual potential and to realize harmonious human such as intellectual, spiritual, emotional and physical based on trust and obedience to God. This effort is to create people who have knowledge, skilled, noble, and is responsible for the prosperity of society and the state.

It is influence to the social condition, culture, economic dan politic in this region. With a large number of Muslims in Malaysia, they carry out their religious teachings well. They obey to worship, both mandatory and *sunnat*, they have a good morality. It is influence to the Hulu Langat Selangor Darul Ehsan society responses about the obligation of HIV test before marriage.

B. Responses about HIV Test and Human Rights Issue

1. Hulu Langat Selangor Darul Ehsan Society Responses about HIV Test as a Requirement of Marriage Registration.

In the previous chapter, it is explained that HIV test is used to detect the presence of the human immunodeficiency virus, the

⁵¹Mahmood Zuhdi Hj Abdul Majid & Raihanah Hj Azahari (1987), *Undang-Undang Keluarga Islam: Konsep dan perlaksanaannya di Malaysia*. Kuala Lumpur: Penerbit Universiti Malaya, h. 36.

virus that is caused by acquired immunodeficiency syndrome, in serum, saliva, or urine. Such test may detect antibodies, and antigens. This virus is so dangerous for body health. This virus attacks the immune system of body that would get rid of a virus.

Human Immunodeficiency Virus is serious problem in the world because there is no cure for this disease until now. HIV can spread easily. It can be transmitted by sexual intercourse, by contact with an infected person's blood and by the mother-to-child.

The State Religious Department of Malaysia obligate HIV test to bride and groom before marriage. This program is made to reduce the number of HIV-AIDS cases on Moslem spouse and their descendent. This program can be imitated to anticipate the spread of HIV-AIDS for Muslim spouse who will marry.

Every spouse in Hulu Langat Selangor Darul Ehsan who does not have HIV test certificate could not married. Moreover, it is not include in the requirements and the pillars of marriage. However, from some informants in this study, they agree about obligation of HIV testing as a requirement of marriage contract. They assume that the program is good to prevent HIV transmission.

In Islam, to keep healthy and to keep away from disease are important for everyone. Moreover, Infectious disease such as HIV, then it is obligatory for them to prevent from being transmitted to others. However, to prevent this disease should not required to

marriage, because not everyone wants to know the status of their health, such as this disease.

Most of the people in Hulu Langat Selangor assume that HIV testing before marriage is a good program and they agree with this program. However, they have different reasons in response this problem. Such as:

a. To Ensure the Health of Couples

Health of couples is important in marriage. Because in marriage each spouse wants to get harmony and welfare in family. Keep healthy is one of way to get the goal. Hence, the spouse can have harmony in family if they can fulfill their obligation. Therefore, helthy of couple is important to make harmony in family. So that, they can carry out their obligations well.

HIV test is good for the health of spouse to be free from disease before marriage. Because everyone does not have good morals. So to ensure the health of spouse, then need to take this test. Siti Nur Abidah⁵² said that:

"Ujian ini sangat bagus bagi menjamin tahap kesihatan pasangan tersebut adalah bebas daripada penyakit sebelum akad nikah dilaksanakan. Karena dunia sekarang adalah dunia yang sangat sosial. Manusia yang baik dimata kita tidak semestinya baik akhlaknya. Jadi pergaulan bebas yang sangat kronik sekarang menjadi faktor kepada perlunya ada ujian HIV ini bagi menjamin tahap kesihatan pasangan."(This test is very good. it is to ensure the health of spouse, in order they do not have dangerous disease

⁵²Siti Nur Abidah, *Interview*, (Selangor, 27th January, 2015)

before married. nowadays is social world, not all people have good moral. so, free sex cause obligating HIV test, it is to ensure the health of spouse).

Nowdays a lot of free sex. It is not only done by adults but also among students also occur. It is necessary to make HIV testing to ensure the health of their spouse. Because they do not know, whether person who will marry is a person who has a good life background. Therefore, to prevent the transmission of this virus they need to take this test before marriage.

Siti Nur Abidah's opinion same with Azizul Zaisara's opinion she said that:⁵³

"Saya bersetuju menjadikan test HIV sebagai syarat akad nikah, kewujudan test HIV ini untuk membolehkan pasangan tersebut berfikir panjang sebelum meneruskan keputusan untuk hidup bersama, kebersediaannya juga dapat mengurangkan penyebaran HIV kepada bakal anak dan pasangan. Untuk mengelakkan kesedihan dan kemalangan jiwa dalam menghadapi situasi yang berkaitan dengan kesehatan pasangan."

(I agree about HIV test as a requirement of marriage. This HIV test is to give chance for a couple to continue their marriage or not. Their approval to take HIV test can reduce the spread of HIV to their couple and their descendent. It is also to avoid sadness in facing health of couple.)

Azizul Zaisara considers that the obligation of HIV testing before marriage is good program. Islam suggest to know the health status of spouses before marriage. They can discuss with their

⁵³ Azizul Zaisara, *Interview*(Selangor 17th February 2015)

family to continue marriage or not. So, this HIV test is important in family life to ensure the health status of their spouse.

A person living with HIV said that the prevention of HIV transmission is good, such as HIV test before marriage. Everyone should take HIV test to prevent the transmission. It is for human kindness in the long term. People living with HIV have rights to married. There is no problem of people with HIV to married, if the partner agree to married, as long as they can circumvent the transmission to their partners. Muhammad Bin Wahid⁵⁴ said that:

"Secara peribadi saya bersetuju dengan praturan tersebut. Mencegah lebih baik daripada merawat kerana tujuannya untuk mencegah jangkitan kepada bakal isteri dan zuriat. Sebab itu statistik HIV di Malaysia kelihatan tinggi kerana peraturan tersebut tetapi dapat menjaga kemaslahatan ummah yang lebih besar dalam jangka panjang. Di negara lain, mungkin kelihatan rendah tetapi realitinya sangat tinggi. Bandingkan jumlah penduduk dengan statistik, kita akan dapat lihat sesuatu yang tidak betul sedang berlaku."Maklumat tentang status HIV positif tersebut masih sulit dan hanya diketahui oleh pihak kementerian kesihatan. Wajib diberitahu kepada bakal pasangan sahaja. Untuk mengelakkan penganiayaan. Jika mereka tetap berhasrat meneruskan perkahwinan, mereka perlu jalani kaunseling dan faham cara untuk elakkan jangkitan. Mesti dapatkan rawatan."(I agree with this regulation. Preventing is better than cure, because it is to prevent HIV transmission to spouse and descendent. The statistic of HIV in Malaysia is high because the regulation, wherease it is to keep the goodness of society in the long term.

⁵⁴Muhammad Bin Wahid, *Interview* (Selangor, 22nd of February 2015)

In other country, the statistic of HIV seem low, but in the reality is high. If compared the population with the statistic of HIV. The result of the test just known by health minister and their spouse, it is to avoid oppression. If they want to countinue their marriage, they need to understand about prevention of HIV tranmission).

Muhammad bin wahid considers that this regulation is good for the bride or groom who want to married. This rule aims to prevent HIV transmission to others and for the benefit of the society. Hence, this rule is obligated for all muslem because this disease is dangerous for life. Most people do not determine about the importance of health. Whereas, healthy is important in family life. Have a healthy partner can bring positive thinking that can more appreciative of life and explore the potential maximally.

Life will be more quality if all our human potential to be fullfilled properly. Human have lot of potential so that they have caliph position in the earth. All this potential be a provision for a quality life. Have a healthy spouse is one of the means of channeling all human potential that will make life more meaningful.

b. To Ensure the Healthy of Descendent

To take medical tests is useful in life. Such as take HIV test is important in family life. Most people do not realize the dangers of HIV in family and descendants. It is closely related to consciousness to maintain the health of yourself, spouse or descendants.

The obligations of HIV testing is good for those who will marry. Because this disease is a contagious disease that can be transmitted by sexual intercourse and can also be transmitted to the unborn child if the mother has HIV disease. To hide this disease from their spouses as well as persecute them. If a person has infected with HIV, so he/she is difficult to cure. So for the sake of their partner so they are obligated to take HIV test before marriage. It is not only to keep the health of spouse but also to get good descendent, Shazwan Suhiman⁵⁵ said that:

"Saya Bersetuju, dan memang sudah dijalankan di Malaysia, di mana pasangan yang ingin berkahwin salah satu syaratnya perlu melakukan test HIV. Kewajipan ini untuk pasangan mengetahui samada mereka positive ataupun negative HIV. Hal ini kerana, HIV merupakan penyakit berjangkit yang berjangkit melalui salah satunya ialah hubungan kelamin suami isteri. Menyembunyikan penyakit HIV daripada pasangan adalah dikira menganiaya kerana HIV/AIDS penyakit yang tiada harapan untuk sembuh. Memelihara perkahwinan dari pada tempat penganiayaan kepada pasangan dengan menghindarkan potensi berjangkitnya HIV. Mengawal kelahiran bayi-bayi yang dijangkiti HIV yang dibawa ibu ayah mereka. Memelihara keharmonisan keluarga / masyarakat selaras dengan maqasid syariah."

(I agree with this regulation, it is a requirement of marriage registration. This obligation aim to know the status of HIV, because HIV can spread easily. It can infect through sexual intercourse. To hide the HIV status from their spouse is same as bedevil them, because HIV is difficult to cure. Avoid the HIV transmission to keep marriage in order they do not bedevil their spouse. To keep mother to child transmission. To keep harmonius family is in line with maqashid syari'ah.)

⁵⁵Shazwan Suhiman, *Interview* (Selangor, 23th January 2015)

Every human experience growth or development. There are several factors that can affect the growth and the development of children. One of the factors that is influence to the developments of children is healthy of parents. Healthy descendent is born by healthy spouse.

Shazwan Suhiman's opinion is supported by Su'aidah Isma'il's opinion and Azizul Zaisara's opinion, they said that the obligation of HIV test before marriage is the first step for each spouse to get descendent that is free from dangerous disease. It aims to reduce the spread of HIV to baby. It was said by Azizul Zaisara, She said that:

"Saya bersetuju menjadikan test HIV sebagai syarat akad nikah, kewujudan test HIV ini untuk membolehkan pasangan tersebut berfikir panjang sebelum meneruskan keputusan untuk hidup bersama, kebersediaan menghadapinya juga dapat mengurangkan penyebaran HIV kepada bakal anak dan sebagai langkah keselamatan bagi pasangan bebas dari HIV."

(I agree about HIV test as a requirement of marriage. This HIV test is to give chance for a couple to continue their marriage or not. Their approval to take HIV test can reduce the spread of HIV to their couple and their descendent. It is also to avoid sadness in facing health of couple.)

To get healthy descendent needed broad understanding of HIV / AIDS to society. Thus, people, especially women, will be more aware and more know how to prevent the spread of HIV. Especially how to protect mothers and children from HIV / AIDS.

A lot of HIV infection to children. This is because a mother is not know and is not aware of HIV infection. Therefore, it

needed to know the health condition of the mother from the beginning, then the infection to the child can be minimized.

The prevention and the transmission of HIV from mothers to their baby can be prevented. They prevent the transmission of HIV is same as protect them. Therefore, there step should be taken to avoid the spread of HIV / AIDS. If they infected during pregnancy, then they should be taking antiretroviral drugs to suppress the growth of virus in the blood. There is no guarantee that the baby will be infected or not, but if they do not drink antiretroviral drugs, the risk of the transmission is high.

A woman lives with HIV can transmit to her baby easily, if she does not make prevention. They also need to know that the transmission of HIV from pregnant mother to her baby can occur anytime during pregnancy, such as childbirth and breastfeeding. This is to save the baby. In addition, to keep the descendent to be free from HIV, they needed to choose a good spouse. Because they will live together, so that descendants who will be born is healthy and is free of HIV disease. As it was said by Nur Hayati Sabri⁵⁶, She said that:

"Tes HIV ini memang seharusnya sudah diwajibkan di Malaysia. Untuk menjamin keturunan sehat dari penyakit bahaya. Karena zaman sekarang banyak berlaku zina dan seks bebas. Bukan sahaja orang dewasa, dikalangan pelajar juga banyak. Jadi elakkan kita dari berkahwin dengan

⁵⁶Nur Hayati Sabri, *Interview*, (Selangor, 26th February 2015)

pesakit HIV, dapat memelihara keturunan sehat dari penyakit bahaya."

(HIV test should obligated in Malaysia. It is to ensure the health of descendent. Because nowadays a lot of free sex. So it is to keep their marriage with people livin with HIV in order they do not have a good descendent.)

Up to now, there is no vaccine that can prevent or treat HIV / AIDS. However, they should to Make HIV prevention for themselves and others. An understanding of the process of HIV transmission is the key to its prevention. Besides that, they should choose health spouse in order to keep the descendent from HIV.

The principle of protection in HIV preventing is needed for those who are vulnerable to HIV infection. This principle is known as a general principle of precaution, the guidelines on infection control measures to protect medical workers, patients, and others. So that they protected from various diseases that is spread by blood and body fluids.

c. To Ensure The Welfare of Family

The welfare of family considered as the ultimate goal to live a life in this world. In Islamic world, the welfare of family is *sakinah, mawaddah* and *warahmah*. One of the strategic steps to achieve it is maintain good health. Because the obligations of family can be done well if the couple have good health both physically and mentally. So that, they can have harmonious family.

To keep healthy is important in family life. Because it is influence to the family condition in the future. So that they must prepare for all matters before marriage Such as mental, economic and health in order to obtain prosperous and harmony marriage. So that, to know the health status of couples who will married is important before married in order they do not disappointed after married. Suhiman Shazwan⁵⁷ said that:

"Kewajiban ini bertujuan untuk pasangan mengetahui samada mereka positive ataupun negative HIV. Hal ini kerana, HIV merupakan penyakit berjangkit yang berjangkit melalui salah satunya ialah hubungan kelamin suami isteri. Menyembunyikan penyakit HIV daripada pasangan adalah dikira menganiaya kerana HIV/AIDS penyakit yang tiada harapan untuk sembuh. Selain itu, anak daripada pasangan HIV juga berpotensi tinggi mempunyai HIV."

(This obligation aim to know the status of HIV, because HIV can spread easily. It can infect through sexual intercourse. To hide the HIV status from their spouse is same as bedevil them, because HIV is difficult to cure. Besides that, their descendent is high potentially have HIV.)

He considers that obligation of HIV test is to goodness of community and to maintain the welfare of family. So that they avoid the dangerous disease. To know the health status of person who will married, wheter they positive or negative HIV is one of the way to keep welfare of life. HIV is contagious disease, it can transmitted through sexual intercourse. So in order they do not infect our couple. It is also to establish a prosperous society and

⁵⁷Shazwan Suhiman, *Interview* (Selangor, 23th January 2015)

family. This statement is supported by Sakinah Muhammad's statement⁵⁸. He said that:

"Bagus sekali diadakan test HIV ini untuk mengekang dan mengelak daripada berlakunya perkara yang tidak diingini selepas pernikahan yang menyebabkan penularan virus HIV kpd yang tidak bersalah jika salah satu pihak merupakan pesakit HIV. Jadi, saya menyokong penuh polisi ini dilaksanakan. Mencegah daripada penularan HIV kepada individu yang tidak bersalah dan membentuk masyarakat dan keluarga yang sejahtera serta bebas HIV yang merupakan virus dan penyakit yang tiada kesembuhan."

(The HIV test is a good program. this is to prevent transmission of HIV to the family, if one of the parties is the patient with HIV. So, I fully support this policy to be implemented. Prevent transmission of HIV to everyone will form a family of prosperous and free from HIV disease that has no cure)

He considers that this test is good to keep from *madharat* (damage) after marriage. To prevent a *madharat* (damage) is better, Such as infect a healthy spouses. They also consider that this is a fraud or an abuse, if we hide the disease to a couple who will married. Then for the common good, we have a role to justify the condition and to remove persecution. Because HIV infection is caused by many factors not only caused by sexual intercourse. Thus need to prevention before contracted. Nur Hazriani Razali⁵⁹ said that:

"Pendapat saya HIV test untuk bakal pengantin adalah satu merupakan satu syarat yang sangat bagus. Karena nak

⁵⁸Sakinah Mohammad, *Interview* (Selangor, 22nd December 2014)

⁵⁹Nur Hazriani Razali, *Interview* (Selangor, 16th February 2015)

menyekat penularan dan meningkatkan kualiti hidup infected dan affected people. Bagi saya HIV test ini sangat penting dilakukan sebelum sesuatu pernikahan itu berlaku kerana kita hendak mencegah sesuatu kemudharatan yang lebih teruk selepas perkahwinan. contohnya jika tiada HIV test sebelum bernikah dan salah seorang pasangan suami atau isteri pembawa HIV yg positif apakah nasib isteri atau suami dan anank-anak yang bakal dilahirkan. Kita juga tidak mahu penceraian dalam sesebuah perkahwinan berlaku akibat pasangan tidak berterus terang tentang penyakit mereka. Kita juga tidak mahu penganiyaan berlaku terhadap orang yang tidak bersalah. Jika test HIV dilakukan dan pasangan itu mengetahui salah seorang daripada mereka terkena jangkitan HIV mungkin ada solution lain yang boleh dibuat untuk membantu pasangan tersebut. Ini bukan diskriminasi terhadap orang yang terjangkit sebab hal ini kita melihat kepada kemudharatan yang panjang jika test ini tidak dilakukan".

(In my opinion, the HIV test for the bride is one of the requirements that is very good. Due to prevent infection and improve the quality of life of people living with HIV or not. HIV test for me is very important to do before marriage, because we want to prevent the damage after marriage. for example, if there is no HIV test before get married and one of the husband or wife living with HIV, whether the fate of the husband-wife and children who will be born. We also do not want to divorce in a marriage caused the couple do not speak about their disease. We also do not want to persecute to other people. If one of the pair of them were living with HIV, then there is another solution that could be made to help the couple. This is not discrimination against infected people, because it is to see the damage, if they do not take the test.)

She considers that this test is good for couples who will perform marriage. So they protected from this transmitted disease to improve the quality of life. Everyone has an important role to improve their lives and to avoid discrimination or persecution on people living with HIV.

The transmission of HIV is caused by many factors, not only caused by sexual intercourse but also can be transmitted by blood transfusions contaminated with the AIDS virus, and by a syringe used people live with HIV.⁶⁰ So they are required to take precautions before infected this disease. It is for the common good. Therefore they should choose a good partner. Because they will live together, so that descendants who will be born healthy and free of HIV disease.

It is for the benefit and harmony of the family, because the spouses will live together. So with the implementation of this test can reduce the spread of HIV both the spouse and child.

It is a good for survival in the future. It is the first step for the couple who will marry, so that domestic become wealthy, *sakinah*, *mawaddah* and *warahmah* (affection). The HIV test as the first step to have welfare and happiness family for the couple who want to marry.

HIV testing before marriage is beneficial to domestic welfare. Domestic welfare is important, it is to happiness of the family. Therefore need to strive to achieve the goal, namely with the prevention of HIV transmission. HIV prevention is needed by everyone, including married couples. This is to avoid anything that is dangerous to the family.

⁶⁰Majdi Rajab, *Hidup Sehat Dengan Seks Halal*, Penerjemah Shafa'ul Qalbi, (Jakarta:2007, Darul Mishriyah Kairo), h. 231

The result of the HIV test must be notified to the partner to avoid persecution. If he hide to his partner. He considered deceiving them. Because men with HIV / AIDS can transmit the disease to his wife as well as a woman. Moreover she could infect her child. Therefore everyone who wants to married sholud takes HIV test. It is to keep *maslahat* (goodness) in family which is build. Moreover it is to prevent divorce that is caused by HIV. Faza Nur Farizan⁶¹ said that:

"Pada pandangan saya, wajar ada ujian HIV itu sebab untuk jaga kemaslahatan dalam keluarga yang akan dibina. Biar pasangan masing-masing tahu. Walaupun tak dinafikan bahwa penyebab HIV ini bisa aja disebabkan oleh kekacuaian pihak perubatan seperti yang pernah berlaku." (In my opinion, the HIV test should be done. it is to keep the benefit of the family. Let each partner knows. Although not deny that HIV can caused by the mess of medicine like that have prevailed.)

The issue of HIV AIDS has not a secret in the family. Married couples should understand the dangers of this disease for domestic life. Most housewives are victims of HIV / AIDS, this should be a lesson for all the family. Married couples should be aware of health and take care of each other. One of the steps that can done is taking medical check up. Therefore, this test is important for early treatment in order to create welfare of family.

d. To Reduce Divorce Cases

⁶¹Faza Nur Farizan. *Interview* (Selangor, 24th February 2015)

Everyone should know the health status of their partners for the goodness of the family. The purpose of State Religious Department of Malaysia requires HIV test is to reduce the rate of divorce. Because, when they know that their spouse infected HIV, they file a divorce. Most society consider that people living with HIV are not good. However HIV can spread not only due to always perform sexual intercourse with anyone but also can infect through blood transmission, injection, and mother-to-child. So not all people living with HIV have bad morals. Nur Hazriani Razali⁶² said that:

"Jabatan Agama Malaysia jadikan kewajiban test HIV sebelum menikah ini sebagai salah satu cara agar dapat kurangkan penceraian pasangan muda yang kahwin... Tidak semua yang positif HIV itu tidak baik...kan panggil kaunseling jika positif...selidiki latarbelakang supaya dapat tau puncanya."

(State Religious Department of Malaysia requires HIV test is to reduce the rate of divorce among young couple, because no all people living with HIV are bad people. they can do consulting to the health authorities if the test result is positive. investigate the background in order to know the cause.)

The obligation of this test is to avoid divorce in family. Most married couple do not want to have spouse who is infected HIV, because they want to get good descendent. In fact, a lot of divorce that is caused by HIV. They assum that HIV is very dangerous to family life. So that, to keep the harmony of family

⁶²Nur Hazriani Razali, *Interview* (Selangor, 16th February 2015)

they should keep healthy spouse. It is supported by Ahmad Uzairi and faza Nur Farizan's statement, they said that:

"Wajar ada ujian HIV untuk menjaga kemaslahatan dalam keluarga yang akan dibina. Biar pasangan masing-masing tahu. Walaupun tidak dinafikan bahwa penyebab HIV ini bisa aja disebabkan oleh kekacauan pihak perubatan seperti yang pernah berlaku, namun biar pasangan masing-masing tahu. Malaysia jadikan kewajiban test HIV sebelum menikah ini sebagai salah satu cara agar dapat kurangkan penceraian pasangan muda yang kahwin. Tidak semua yang positif HIV itu tidak baik, kan panggil kaunseling jika positif."

(The HIV test should be done. It is to keep the benefit of the family. Let each partner knows. Although, it does not deny that HIV can caused by the mess of medicine like that have prevailed. State Religious Department of Malaysia requires HIV test is to reduce the rate of divorce among young couple, bacause no all people living with HIV are bad people. They can do consulting to the health authorities if the test result is positive.)

The main source of the spread of HIV / AIDS is a free sex and abuse of illegal drugs such as drugs and napza. Therefore, the prevention must be carried out by eliminating the practice of free sex and by breaking the circulation of drugs. It is could carried out by halting deviant sexual, diverting prostitution with provide employment which is lawful and adequate, giving punishment for free sex, and law enforcement on drug.

Prevention of free sex can be effective if everyone implanted Islamic personality. society educated to adhere to religious teachings. People who understand that sexual intercourse is sacred and it can only done with the a legitimate partner through marriage. It will establish a healthy social life.

2. Hulu Langat Selangor Darul Ehsan Society Responses about Human Rights of Mandatory HIV Test as a Requirement of Marriage Registration.

In the previous chapter explained that prevention of HIV / AIDS cannot be separated from the legal aspects and Human rights. Because human rights is the rights that everyone as human being endowed from the day they were born into this world until they leave this world. These rights cannot be taken away, nor derogated or denied based on colour, religion, age or other personal factors. Human right is meaningless without freedom. The main problem about law that is related to the development of HIV / AIDS cases is how to balance between the protection of the public and people live with HIV / AIDS.

Human rights aspect is influence component for implementation of HIV testing program. Premarital HIV testing program is good. because it is to reduce HIV infected, to keep descendent in order to get health generation, to welfare and harmony in family. It is in line with the content of *maqashid as-syari'ah*, one of *maqashid as-syari'ah* is *Hifdzun Nasl* (keep descendent), something that can guarantee the sheltered of five matters, one of the five matters is to preserve human life and to preserve of descendent. Premarital HIV testing is to *maslahat* (goodness) for human being, all dangerous are *mudharat* or *mafsadah* and it must be avoided.

Prevention of HIV cases program in Malaysia that is obligated for all moslem couple who will marry must considere human rights aspects, because Human rights should be protected and be respected by everyone, community and country. So everyone both family, community and government cannot disturb other rights.

There are fundamental rights related with HIV / AIDS problem, such as healthy rights and non-discrimination rights. The problem of discrimination against HIV / AIDS is more complex and difficul to resolve than the healthy rights.

Everyone has diffrent opinion about Mandatory of HIV test before marriage. There are some people who argue that Mandatory of HIV test before marriage can take human rights. However, There are some people who argue that Mandatory of HIV test before marriage is good, it is for welfare and harmony in family.

from 10 informants in selangor, There are eight persons assume that there are no human rights issues in obligations of the HIV test. It is one of the programs that keep human rights. The prevention needs to undertaken so that there is no more disaster. There are two persons assume that this programe is in line with the purpose of Islam (Maqashid Syariah), It is for the common good so that each partner knows the health status of their partner before married. So that, they assume that this program does not agints

human rights. This will be delivered the following statement that they present generally:

a. The Obligation of HIV Test Does Not Againsts Human Rights

Society of Hulu Langat Selangor assume that the obligation of HIV test before marriage does not againsts human rights. however, they have diffirent reasons in respond this issue.

The obligation of HIV test before marriage is to keep human rights. It is in line with maqashid syari'ah such as to preserve the descent and to preserve human life. Therefore, there is no human rights problem in the obligation of HIV test before marriage, because it is to prevent human life from being destroyed in the form of death and from dangerous disease. Hence, this intent of this rule same with the regulations in law such as a right to life, or free from the disease. Sakinah Muhammad⁶³ said that:

"Test HIV juga merupakan salah satu dari pada pelaksanaan yang menjaga hak kemanusiaan dari sudut kesihatan di mana sepatutnya pencegahan itu perlu dilaksanakan terlebih dahulu agar tiada musibah lebih besar berlaku dan supaya setiap pasangan mengetahui status kesihatan pasangannya sebelum bernikah. Maka, tiada isu human rights di dalam kewajiban ini."

(HIV testing is also one of the programs that keep human rights in terms of ill-health, prevention duly need to be implemented so that no more calamity. so that each couple know the health status of their partner before married. Thus, there is no issue of human rights in this obligation.)

⁶³Sakinah Mohammad, *Interview* (Selangor, 22nd December 2014)

They assume that the obligation of HIV test before marriage is to keep human rights. Islam suggest a couple who will marry to know the personally of their partner, Such as religion, family, moral and health status.

HIV test should be taken by person who will marry to know the health status of spouse. To know the health status of couple who will be married is important in order they are not disappointed after married, and to keep themselves from HIV. It is supported by Su'aidah Ismail's statement⁶⁴. She said that:

"Zaman sekarang ini kita sendiri banyak terdedah dengan penyakit bagi saya ok sajalah. It's for safety right zaman sekarangni macam ada juga pasangan yang masih mahu meneruskan perkahwinan biarpun HIV positif tesnya bilamana kita sendiri tau keadaan kita, pastinya kita akan lebih berhati-hati banyak pencegahan yang boleh kita lakukan."

(Nowadays, we often contract the disease. for me, this program is good. It is for safety right. Nowadays there is a couple who still wants to continue the marriage despite HIV positive. When we know our circumstances, we certainly would be more careful to take precautions.)

The obligation of HIV test before marriage is related to human rights. It is for safety rights to everyone and for common good. Therefore, we should be careful in determining the spouse because nowadays a lot of people who want to continue marriage although he contracted HIV. Hence, this test is obligated for all

⁶⁴Su'aida Isma'il, *Interview*, (Selangor 24th February 2015)

muslem couple who will marry in order to maintain theirselves from the dangerous disease.

HIV test before marriage becomes important in order they are not dissapointed, it is for harmony and benefit of the family. It was said by Siti Nur Abidah⁶⁵. She said that:

"Bagi saya tidak timbul isu diskriminasi. Seharusnya pasangan perlu mengetahui terlebih dahulu seandainya pasangan yang bakal berkahwin tersebut ada menghidap HIV atau tidak. Perkara ini penting bagi menjaga bakal pasangan supaya tidak tertipu selepas berkahwin dan juga bagi menyelamatkan pasangan daripada turut berjangkit penyakit HIV."

("For me, the obligation HIV test does not againts discrimination issues. Should your partner know the health status of couples who will marry them. It is important to keep the couple in order they not to be deceived after married and also to save a couple from HIV disease.)"

The obligation of HIV test is in line with human rights. It is related to safety and discrimination against people who live with HIV. Many discriminations against people living with HIV, they ostracized from society and family. Most people assume that people who are HIV have bad morals, and they are harmful to others. Though, not all people living with HIV are people who have bad morals. They can be infected through needles used by people living with HIV or infected by her/his partner (husband-

⁶⁵Siti Nur Abidah, *Interview*, (Selangor, 27th January, 2015)

wife). Therefore, it is needed to give explanation to the society about HIV. Ahmad Uzairi⁶⁶ said that:

"Tidak timbul isu human rights kerana pernikahan adalah gabungan dua keluarga dan mereka berhak tahu walaupun HIV itu Adikesan selepas pernikahan.

Diskriminasi bergantung kepada tahap penerimaan keluarga dan masyarakat. Sejauh mana pengetahuan dan kesedaran keluarga dan masyarakat kepada HIV ini. Pelbagai faktor yang mampu untuk membuatkan seseorang itu dijangkiti HIV. Daripada keputusan itu, dapat dilihat orang yang mana mahu benar hidup dengn kita walau dalam keadaan susah dan senang."

(It does not againts human rights. because marriage is the unite of two families and they have right to know it, even though HIV is no impression after marriage. Discrimination depends on the stage of the family and community acceptance. How far the knowledge and consciousness of families and communities to HIV. There are many factors to make a person to be infected with HIV. Instead of that decision, may be people who do want to live with us even in difficult and happy circumstances.)

He considers that there is no human rights in obligation of HIV test before married, because everyone should know the healthy status of their spouse. Most society consider that people living with HIV are people who are not good. there are many factors that make people infected HIV, not all people who are HIV positive has bad behavior Because HIV can attack everyone throught sexual intercourse, blood tranmission, injection, and mother-to-child. Therefore, the occurrence of discrimination depend on understanding of the family or the society about HIV.

⁶⁶Ahmad Uzairi, *Interview*, (Selangor, 26th February 2015)

This HIV test is not everyone rights. But everyone has obligation to take HIV test before married, it is for the goodness of family. Nowadays a lot of free sex, it is not only done by adults but also instead among students have occurred. Therefore, it should take before marriage to avoid *madharat* (damage) before marriage. Nur Hazriani Razali said that:

"Bagi saya tidak ada issue human rights dalam HIV test, ini sangat penting dilakukan sebelum sesuatu pernikahan itu berlaku kerana kita hendak mencegah sesuatu kemudharatan yang lebih teruk selepas perkahwinan. contohnya jika tiada HIV test sebelum bernikah dan salah seorang pasangan suami/isteri pembawa HIV yg positif apakah nasib isteri/suami dan anak yang bakal dilahirkan. Kita juga tidak mahu penceraian dalam sesebuah perkahwinan berlaku akibat pasangan tidak berterus terang tentang penyakit mereka. Kita juga tidak mahu penganiyaan berlaku terhadap orang yang tidak bersalah."
(In my opinion, HIV test does not againts human rights. HIV test for me is very important to do before marriage, because we want to prevent the damage after marriage. for example, if there is no HIV test before get married and one of the husband or wife living with HIV, whether the fate of the husband-wife and children who will be born. We also do not want to divorce in a marriage caused the couple do not speak about their disease. We also do not want to persecute to other people. If one of the pair of them were living with HIV, then there is another solution that could be made to help the couple. This is not discrimination against infected people, because it is to see the damage, if they do not take the test).

In addition, obligation of this test is to preserve every person rights, and to keep the family from *madharat* (damage). Because a lot of negative effects to married couple infected with

HIV. One of the effects is influenced to descendent that will be born. A mother lives with HIV can transmits the virus to the child during pregnancy. So that, they should take this test and keep healthy in order they can free from this disease.

b. Human Rights in Obligation of HIV Test Is in Line with Syari'at Islam

Health is important in a marriage in order to have healthy family and to have children. Such as HIV, Identification of this disease is very important to prevent HIV transmission. Therefore, Islam suggest to carry out *ta'aruf* before marriage. It is to know the personally of spouse who will married (such as biography, character and health), and to the benefit in marriage. It was said Shazwan Suhiman⁶⁷. He said that:

"Human Rights tentang diwajibkan test HIV sebelum nikah/kahwin sangat selari dengan kehendak Islam. Islam memberi peluang dalam taaruf antara pasangan yang ingin berkahwin untuk mengetahui butir-butir kecacatan atau penyakit kronik agar kelak rumah tangga yang dibina tidak berlakunya konflik. HIV merupakan penyakit yang hanya diketahui melalui test di hospital kerana pada peringkat awal pesakit masih lagi kelihatan normal dan mungkin dia sendiri tidak tahu bahawa dia dijangkiti HIV sekiranya tidak membuat pemeriksaan."(Human rights on obligation of HIV test is in line with the purpose of islam. In Islam is recommended for someone who wants to marry to ta'aruf with the couples who will be married. It is to know the disease in order they do not have conflict in family. HIV can

⁶⁷Shazwan Suhiman, Interview (Selangor, 23th of January 2015)

only known by taking test in hospital. Because, in the early stape of person living with HIV is still seem normal and maybe she/he does not know that is infected HIV if she/he does not take the test.)

Shazwan considers that the human rights on the obligation HIV test before marriage is in line with the purpose or the Islamic teachings, namely ta'aruf. In Islam is recommended for someone who wants to marry to ta'aruf with the couples who will be married.

Ta'aruf (enggagment) is a proccess for couples to know each other, such as morality, *nasab* (descendent), health and everything related with her/him. As we know that HIV is a dangerous disease, it can only known by taking test in hospital. Because, in the early stape of person living with HIV is still seem normal and maybe she/he does not know that is infected HIV if she/he does not take the test. Therefore, to keep family from comflict they should know the status of their spouse before marriage.

Everyone has rights, however the rights must be in line with Islamic context. However, some people do not agree with mandatory of HIV test before marriage because they are afraid that their spouse will cancle their marriage, if they are contaminated by HIV.

So, human rights on mandatory of HIV test is must related to Islamic context. In Islam also explain about human rights, such as rights to life, rights to keep honour, and rights to marry. Everyone has rights to keep their rights, as well as those who are infected HIV, they also have the right to be fulfilled their rights, such as rights to life, rights to keep honour and to keep rights to marry.

Everybody has the rights to choose whether to take or not HIV test. Because it is related to person honour. However in Malaysia, State Religious Department makes regulation that people who will marry have to show HIV test certificate. Muhammad bin Wahid⁶⁸ said that:

"Human rights perlu dilihat secara lebih luas dan adil kepada semua pihak. Setiap individu punya rights dan rights tersebut mesti dilihat dalam konteks Islam, bukan orientalis."Tentang soal takut pasangan membatalkan perkahwinn, kita perlu merujuk kepada maksud maqasyid syar'iah. Semua individu ada hak.

Di sini ada sedikit masalah apabila yang mengendalikannya sendiri tidak begitu faham tentang HIV. Ada setengah pihak di jabatan agama mencuba menghalang atau mereka mencuba buat peraturan tambahan seperti wajib diborang ujian tersebut mesti menyatakan positif atau tidak, mesti memaklumkan kepada keluarga bakal pasangan. Maka berlakulah masalah yang menghalang perkahwinan tersebut. Anehnya penyakit-penyakit kronik lain yang jauh lebih bahaya dan mudah tersebar tidak dikenakan peraturan tersebut. Itulah yang

⁶⁸Muhammad Bin Wahid, *Interview*, (Selangor, 22nd February 2015)

dinamakan stigma, diskriminasi dan judgemental yang telah sebat. Semua pihak mesti bersatu menentangnyanya."

(Human rights need to be viewed more broadly and fair to all parties. Every one has rights and those rights should be viewed in the context of Islam, not orientalis. On the matter of fear pair will cancel the marriage, we need to refer to the intent maqasyid syari'ah. Every one has the right. Here there is a bit of a problem if the control itself is not so understand about HIV. There are half a party in the state religious department try to prevent to create additional rules, such as the test letters should declare the results of the test, and proclaim to the family of the couple. Then there is a problem that prevented their marriage. Curiously, there is no regulation to other chronic diseases that more dangerous and easily spread. It was called a stigma, discrimination and judgmental that have occurred. All parties should unite against it.)

In islamic context, everyone should to know the health status of spouse who will married. So that, they should explain about the disease, to their spouse. He/she could tell: 'I suffer this disease..' If spouse agrees to marry, then they should continue the marriage. Otherwise if the spouse does not agree, the marriage should not be continued.

In addition, in *Maqashid Shariah* concept explain that they must keep life and keep descendent. Keep the purity of *nasab* (descendent) in oeder to create a healthy generation. So that, men and women of full age, without any limitation due to race, nationality or religion, to marry and to found a family, to be entitled to equal rights as to marriage, during marriage and its

dissolution, and to protection by society and the State of the family.

There is no different regulation for people living with HIV or not to be married, such as in *maqasid al-shar'iyah* as long as each spouse agrees to continue marriage. It is for welfare and domestic harmony. So this HIV test must in line with the goals of *Maqashid Shariah*, Such as preservation of life and preservation of descent.

C. Data Analysis

1. HIV Test as a Requirement of Marriage Registration.

From the information data, it can be concluded that obligation of HIV testing as a requirement of marriage registration is good. Most of People in Selangor agree with the obligation of this rule. However, they have different reasons in respond this problems. They consider that obligation of HIV testing has become a necessity for them, even though the government does not require it. It is to protect themselves from harmful.

Hulu Langat Selangor society said that the HIV test is good for the health of spouse to be free from disease before marriage and to keep from *madharat* (damage) after marriage. To prevent a *madharat* (damage) is better, Such as infect a healthy spouses. This HIV test also to improve the quality of life.

They consider that this is a fraud or an abuse, if they hide the disease to a couple who will married. HIV test before marriage is benecial to reduce the rate of divorce. Most society consider that people infected with HIV is not good. Then for the common good, they have a role to justify the condition and to remove persecution. In fact, everyone does not have good morals. So to ensure the health of spouse, then need to take this test before marriage.

The obligation of HIV test is in line with Wahbah Zuhaili's opinion. He determines that the requirements of mariage are: (1) bride and groom permitted to get married, (2) sighat (ijab and qabul), (3) witnees, (4) liberality and desire of spouse, (5) the spouse that will perform marriage is clear, (6) A couple, either wife or husband is not performing hajj or umrah, (7) dowry, (8) marriage is not hidden, (9) A couple, either wife or husband could not have dangerous disease, (10) guardian.⁶⁹

So, Healthy is important in a marriage in order to have health family and to have children. Such as HIV, Identification of this disease is very important to prevent the transmission. Therefore, Islam suggest to carry out *ta'aruf* (enggagment) before marriage. It is to know the spouse who will married (such as biography, character and health), and to the benefit in marriage.

⁶⁹ Khoiruddin Nasution, *Hukum Perkawinan* I, h. 34.

Ta'aruf (engagement) aims to know a personal couples who will married such as morality, family (nasab), health and everything about them. It done in order they are not disappointed after married, make *sakinah* (harmonious family), *mawaddah*, and *warahmah*.

Fiqh scholars explain about the important of medical check up before marriage. However, they do not obligate to make it, and they do not make medical check up as a requirement of marriage. Health test just recommended in Islam for someone who will married.

Marriage is valid if the pillars and the Requirements are fulfilled. Marriage is as a human choice to express their sexual interaction legally. So with marriage, they expect to make affection relationship, love and responsibility. It is to make a family which is *sakinah* and will continue the human civilization.

Fiqh scholars agree that the pillars and the requirements of marriage there are 5 namely: Bride, Groom, guardian, two Witnesses, Ijab and qabul. They do not require HIV tests as a requirement of marriage. Medical checkup should taken in Islam for someone who will marry, so that they are not disappointed after married.

However in Malaysia obligate HIV tests for all Muslim couples who will married. They cannot married if they do not have

HIV test certificate. This is to maintain the purity of descendent and to prevent damage (*mafsadah*) both for themselves and others.

The program is to prevent *madharat* (damage) in family, it is in line with Wahbah Zuhaili's opinion. He require to couples who will carry on marriage to do not have a dangerous disease. Dangerous disease is an infectious disease such as HIV / AIDS.

Implementation of medical check is *ijtihad*, where the implementation determined as necessary and welfare of humans. It gives space of law-making process which is always change depend on the social dynamics and phenomena. As social dynamics in Malaysia, many Moslem people are contaminated by HIV. Therefore, to prevent the spread of this virus, the government obligate HIV test to each person who will marry. It is for the common good.

One of the benefits of premarital medical check up is to avoid dangerous diseases. If they do not take medical check up it would endanger the spouses and their descendants. This dangerous disease can be a reason for divorce such as HIV / AIDS, impotence and other diseases which are never known before marriage. It can be a problem in domestic relationship.

The prevention of this HIV disease can eliminate something that is dangerous to the survival of the household relationship and it is in line with the purpose of marriage. The

purpose of marriage according to Wahbah Zuhaili is to preserve descendants, satisfy sexual desire and get pleasure.⁷⁰

So the obligation of HIV test as a requirement of marriage is a good programe. It is for *maslahat* (goodness) of human in order they are free from dangerous disease. It is in line with the purpose of *maqashid syariah* such as to preserve of descent and to preserve of life.

In *maqashid syari'ah* explain that everyone has rights to preserve descendent and has rights to preserve life. So, the obligation of HIV test before marriage is on of the way to reache the goal.

2. Human Rights on Obligation of HIV Test as a Requirement of Marriage Registration.

From the information data, it can be concluded that human rights of mandatory HIV test as a requirement of marriage is important. It is an obligation of every person to know the medical status of their partners before marriage. However the right viewed from Islam context.

From ten of Informans in Hulu Langat Selangor agree about the obligation of this rule. There are eight persons said that the obligation of HIV test before marriage does not against human rights. there are two persons said that human rights in obligation of

⁷⁰Wahbah Zuhaili, *Fiqih Imam Syafi'i*, (Jakarta: Al-Mahira, 2010, Jilid 2), h. 452

HIV test before marriage is in line with the purpose or the teachings of Islam (*maqashid syari'ah*) suah as to preserve the descent and to preserve human life. To preserve human life, such as preventing life from being destroyed in the form dangerous disease.

They said that obligation of HIV test before marriage is obligation of everyone. Therefore, there is no human rights issues in this programe. Because it is the goals of *Maqashid Shariah*, Such as preservation of life and pereservation of descent.

It is in line with the purpose of *maqashid syari'ah*, suah as *Hifdzun Nasl* (keep offspring) and *hifdzun Nafs* (keep soul). Something that can guarantee the sheltered of five matters, one of the matter is *maslahat* for human being, everything that dengerous is *mudharat* or *mafsadah*, it must avoided.

To avoid *mafsadah* (dangerous) is more precedence than to take serious benefits. To prevent *mafsadah* (dangerous) with every effort is recommended by the Shari'ah of Islam when it aimed to create general welfare.

Maqashid Syari'ah approach explain about law of the case by consideration of the purposes of *syara'* to establish the law that is not clearly mentioned in the Qur'an. Such as HIV disease, the statistic of HIV cases in Malaysia is high, especially in Hulu Langat Selangor, therefore the Government of Malaysia (State

Religious Department) requires the couple who will marry in order to prevent the spread of this virus, and to keep the benefit of community in the long-term. From the cases found a solution in the form of *sad az-zdari'ah* (close the damage).

To prevent the spread of HIV recommended in Islam. If it aims to create general welfare, in order not to endanger ourselves and others. But people are required to pay attention to those who are sick, and provide them with assistance, both morally and materially. So they do not feel isolated. Especially, morally from the community.

Therefore, for the goodness of the couple and to create human welfare generally. This test is obligated to everyone who wants to marriage in Selangor. While. Every one has the right to life. So in the *maqashid syari'a* approach about the obligation of HIV testing is also something that maintain human rights. Because prevent the spread of HIV is to preserve common good and to preserve descendants.

However in conduct HIV test program before marriage must consider human rights aspect. Human rights aspect is important component and is influence on success of implementation of HIV testing program. There are fundamental rights related with HIV / AIDS problem, such as healthy rights and

non-discrimination rights. It is closely related to Medical Secrets of a person.

A lot of abuse and expulsion that are done by the society towards people living with HIV from their home. Now it must also be deprived, such as the right to education, there are people infected with HIV that removed from their school and their office, where many companies and department, which requires the workers to be free from HIV.

One of the informants said that there is problem in The State Religious Department when people living with HIV will married. They make regulation that in HIV test certificate must report the result both positive and negative, and notified to the family of spouse. It makes obstacle to married. However for more dangerous disease is not excuted the regulation.

However, in article 17 of international commission on human rights explained that "no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation".⁷¹ The individual interest in his/her privacy is particularly compelling in the context of HIV/AIDS, firstly, in view of the invasive character of obligation of HIV test, and the second,

⁷¹HIV/AIDS And Human Rights International Guidelines, h. 44

by reason of the stigma and discrimination attached to the loss of privacy and confidentiality if HIV status disclosed.

In international commission on human rights guarantees the rights to equal protection and free from discrimination on any ground such as race, colour, sex, language, religion. Discrimination on any of these grounds is not only itself but also creates and sustains conditions leading to societal vulnerability to infected by HIV, including lack of access to an enabling environment that will promote behavioural change and enable people to cope with HIV/AIDS.⁷² So in preventing of HIV cases should preserve the rights of people live with HIV, because they have rights to live without any limitation and discrimination.

It is also explain in article 16 of the Universal Declaration of Human Rights encompasses the right of “men and women of full age, without any limitation due to race, nationality or religion to marry and to found a family, entitled to equal rights as to marriage, during marriage and at its dissolution” and to protection by society and the State of the family as “the natural and fundamental group unit of society.”⁷³

Obligation of HIV test before marriage is closely related to Medical Secrets, the relationship between doctor and patient. It

⁷²HIV/AIDS And Human Rights International Guidelines, h. 41

⁷³Katya Burns, *Mandator Premarital HIV Testing*, h. 3

means a physician should not reveal the secret of the patient's disease, without the permission of the patient. A lot of expulsion that are done by the society towards people living with HIV infection from their home. Now it must also be deprived of the right to marry. While the right to get a job, where many companies and the Department, which requires the workers to be free from HIV.

People affected by HIV may progress toward the realization of their rights and their health, if the enabling conditions exist to alleviate the impacts of personal, societal, and programmatic issues on their lives. This requires policies and programs designed to extend support and services to affected families and community.

The effects of discrimination particularly in the forms of racism, gender-based discrimination, and homophobia continue to exacerbate the impact of the pandemic on the lives of individuals and populations around the world. It is increasingly recognized that realization of human rights is critical to protecting the rights and dignity of those infected and affected by HIV/AIDS, and to decreasing the relative vulnerability of individuals and communities.

So, in international human rights law both HIV positive and negative have the right to be free from discrimination, they have

the rights to life, have the right to privacy, have the rights to marry and found a family. In this rule there is no limitation rights for everyone.

