

Facilitating Access to Art and Pre-exposure Prophylaxis for LGBTQ Individuals in Combating HIV in Malaysia: An Analysis from a Shariah Perspective

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ABSTRACT

The increasing rate of new HIV infections poses a significant public health challenge, particularly among young individuals engaging in high-risk sexual behaviours, including male-to-male interactions. Effectively addressing HIV prevention and management within the LGBT community in Malaysia necessitates a comprehensive approach that considers both medical and socio-cultural aspects. This academic inquiry seeks to comprehensively evaluate the progress in HIV preventive measures and therapeutic interventions in the Malaysian context, examining their effectiveness within the affected communities and their adherence to Sharia principles despite religious barriers to modern medical approaches. The findings of this study indicate that the implementation of Antiretroviral Therapy (ART) and Pre-Exposure Prophylaxis (PrEP) measures, supported by the Ministry of Health, align with Sharia principles, underscoring the importance of disease prevention, treatment, and harm reduction. Nonetheless, the research emphasises the vital role of integrating Islamic practices as a preventive measure against HIV transmission. Consequently, this study advocates for improving HIV prevention and treatment strategies pursued by the Ministry of Health by integrating Islamic ethical considerations into Malaysia's public health policies.

INTRODUCTION

Since the initial reports of HIV in Malaysia in the mid-1980s, the affliction has burgeoned into a salient public health quandary, engendering widespread implications for numerous individuals and imposing substantial challenges upon the healthcare infrastructure. Per the data expounded by the Malaysian Ministry of Health in 2023, the nation has witnessed 131,815 documented instances of HIV, encompassing 30,174 patients diagnosed with AIDS, a mortality toll of 62,226 due to HIV/AIDS complications, and a prevalence of 69,589 individuals living with HIV. Additionally, the year 2022 observed the emergence of 3,177 new cases of HIV infections and facilitated the provision of Antiretroviral therapy (ART) to 47,067 patients who have HIV. A particularly disconcerting trend is the marked escalation in the incidence of infections among the youth, as delineated by UNAIDS in 2020.

Recent estimates suggest that approximately 40% of new global HIV infections occur among individuals between 15 and 24 years of age. This trend is similarly observed in Malaysia, as reported by the Ministry of Health Malaysia (2023). Specifically, in 2022, individuals between 20 and 39 years accounted for 77% of new HIV infections in the country, indicating a significant burden within this age group (Ministry of Health Malaysia, 2023). Furthermore, the susceptibility of minors to HIV infection is underscored by a reported case involving a 13-year-old from Johor, highlighting the inclusive nature of the epidemic (Daily News, 2023). This evidence emphasises the critical need for targeted HIV/AIDS awareness and prevention strategies among young populations in Malaysia.

In 2022, the Ministry of Health Malaysia reported an expenditure of RM90.5 million dedicated to combating the Human Immunodeficiency Virus (HIV). Of this allocation, 75.2% was directed towards providing treatment, care, and support for affected individuals. A smaller, yet significant, portion of 5.4% was explicitly allocated for efforts to prevent HIV transmission. This financial investment is part of Malaysia's broader strategy to eliminate HIV as a public health threat, encapsulated in the National Strategic Plan to End AIDS 2016-2030. The plan

articulates ambitious targets, aiming for 95% of all individuals living with HIV to be aware of their status, 95% of those diagnosed to be accessing antiretroviral therapy (ART), and 95% of individuals on ART to achieve viral suppression. This strategy aligns with the global objectives to end the AIDS epidemic by 2030.

Recognising the universally accepted foundations for HIV prevention, which are concurrently deployed in Malaysia, is imperative. These foundations are comprised of sexual education and the economic empowerment of women, advocacy of human rights for key populations, initiatives for the distribution of condoms, the practice of male circumcision, and the administration of pre-exposure prophylaxis (PrEP) as detailed by UNAIDS in 2016. However, the strategy pursued by the Ministry of Health of Malaysia (KKM) in addressing HIV treatment and prevention within the LGBT community has incited significant discourse among scholars, Shariah law experts, and members of the community. Consequently, this research endeavours to execute an exhaustive evaluation of the efforts towards HIV treatment and prevention in Malaysia, with an extended analysis through the lens of the Shariah Perspective.

LGBT AND HIV

The escalating incidence of HIV in Malaysia has positioned the country as the fifth most impacted within the Asia Pacific region. Projections suggest that by the year 2023, the predominant demographic affected by HIV will be men who have sex with men (MSM), a category that encompasses homosexual men, bisexual men, and male-to-female transgender individuals, as identified by the Malaysia Ministry of Health (2021) and substantiated by Anderson & Kanters (2015) and Mahmud et al. (2023). This population is notably at an elevated risk of HIV infection and sexually transmitted infections (STIs), a phenomenon attributed to practices such as unprotected anal intercourse and engagement with multiple sexual partners, as detailed by Dubov et al. (2023) and JadKarim et al. (2023). Current research, including reports from UNAIDS (2022), indicates that the probability of HIV transmission among MSM is 28 times higher in comparison to other demographic groups, thereby underscoring the imperative need for targeted interventions within this community.

HIV TRANSMISSION IN MALAYSIA

Undertaking an HIV screening test is imperative for ascertaining one's HIV status. These evaluations are routinely administered during the process of blood donation (Ramli et al., 2020; Ashamuddin et al., 2022), within antenatal screening protocols for pregnant women (Ishak et al., 2021), amidst diagnostic procedures for tuberculosis or sexually transmitted infections, and as a component of prenuptial HIV assessment (Zainal et al., 2023). Furthermore, specific employment sectors mandate this screening as a prerequisite for hiring, while individuals who perceive themselves at risk of HIV infection or those manifesting symptoms associated with HIV are advised to undergo this screening (How Lim, 2019; Chong et al., 2021).

According to the Ministry of Health Malaysia (2023), approximately 81% of HIV patients in Malaysia are aware of their status, while an estimated 19% remain unaware. However, research suggests that the actual number of HIV-positive individuals in Malaysia may be higher than the reported figures (Samsul et al., 2016). The lack of HIV screening tests hinders the accurate identification of HIV patients in Malaysia, potentially hampering the government's efforts to combat HIV. This issue is particularly pertinent considering the National Strategic Plan to End AIDS 2016-2030, which aims to achieve a 95% awareness of HIV status among positive individuals (Ministry of Health Malaysia, 2023).

Based on the most recent statistics presented by the Ministry of Health Malaysia in 2023, it has been identified that around 81% of individuals diagnosed with HIV in Malaysia are cognizant of their infection status, leaving approximately 19% in a state of unawareness. This discrepancy in awareness levels is further compounded by evidence posited by Samsul et al. (2016), which intimates that the actual prevalence of HIV-positive individuals within the Malaysian populace might surpass the officially reported figures. A significant barrier to bridging this gap is the inadequate provision of HIV screening tests, which is critical for the precise identification and diagnosis of HIV infections. This shortfall notably undermines the efficacy of the Malaysian government's strategies towards mitigating the spread of HIV. Such shortcomings hold considerable implications, especially in light of the National Strategic Plan to End AIDS 2016-2030, which aspires to attain a 95% awareness rate of HIV status amongst those who are HIV-positive (Ministry of Health Malaysia, 2023).

Recent research in Malaysia has illuminated the concerning gap in HIV screening among populations at elevated risk of HIV infection. Notably, a study by Ng et al. (2020) identified that among 622 sexually active men who have sex with men (MSM), merely 61.6% had subjected themselves to an HIV screening test, with 24.3% receiving a positive HIV diagnosis. Remarkably, 38.4% of the MSM cohort disclosed that they had never sought HIV screening despite their engagement in behaviours classified as high-risk. In a parallel examination, Samsul et al. (2016) ascertained that a vast majority (81.8%) of transgender individuals in Kuantan, Pahang, remained unacquainted with their HIV status, notwithstanding their history of multiple sexual partnerships and encounters. Furthermore, a subsequent study conducted by Ranjit et al. (2023) revealed that within a sample of 57 sex workers in Kuala Lumpur who were HIV-positive, a significant fraction was unaware of their HIV status before testing, with 44.1% having never undergone HIV screening. Additionally, the investigations underscored the alarmingly low utilisation of condoms, evidenced by merely 31.6% of female sex workers and 7% of transgender sex workers reporting condom use during sexual transactions. This collection of findings highlights a critical need for intensified efforts in HIV screening and prevention practices among high-risk populations in Malaysia.

It is common for many individuals with HIV to remain undiagnosed until they require treatment for a severe illness or exhibit symptoms of HIV (Lim, 2019; Chong et al., 2021). Consequently, a significant proportion of individuals receive their diagnosis at an advanced stage, often with a CD4 count below 350 cells/ μ L or having developed AIDS (Croxford et al., 2022; Mahmoud et al., 2023). According to a report by the Ministry of Health Malaysia (2023), 70% of HIV-positive individuals in Malaysia are diagnosed at an advanced stage of the disease. Research conducted by Ahmad et al. (2024) indicated that 60% of HIV patients in Selangor, Malaysia, were similarly diagnosed late. Additionally, a study by Koh et al. (2017) involving 65 newly diagnosed HIV patients at the Hospital Tuanku Ja'afar Seremban (HTJS) in Negeri Sembilan revealed that 93.8% were unaware of their HIV status at the time of diagnosis, while 56.9% had experienced symptoms of HIV within three years before their diagnosis.

Untreated and undiagnosed HIV infection significantly contributes to the escalation of new infections (Wejnert et al., 2018; Ahmed et al., 2017; Li et al., 2019; How Lim, 2019). In the United States context, approximately 15% of individuals who are unaware of their HIV-positive status contribute to 40% of the new infections, as documented by Wejnert et al. (2019). Further research by Li et al. (2019) indicates that between 60-80% of new infections are transmitted by individuals either unaware of their HIV status or those who have not received any treatment. Internationally, there is a discernible increase in HIV infections among the youth demographic. UNAIDS (2020) reports that approximately 40% of new HIV infections globally occur in individuals aged 15 to 24. Complementing this statistic, Li et al. (2019) identified an elevated infection rate among young populations, and data from Malaysia exemplifies this trend, with over three-quarters of new HIV infections in 2022 occurring in individuals aged between 20 and 39 (Ministry of Health Malaysia, 2023). Additionally, as of 2023, the recorded number of HIV-infected patients under the age of 14 in Malaysia is reported as 205 HIV (Ministry of Health Malaysia, 2023), further emphasising the pervasive nature of this health issue across various age demographics.

MALAYSIA'S FATWA DEPARTMENT VIEW

The intersection of religion and healthcare delivery significantly impacts patient care, healthcare practices, and overall well-being across spiritual, ethical, and cultural dimensions, shaping the holistic healthcare experience. Religious doctrines often establish ethical frameworks and moral principles that guide decision-making in healthcare. Various religious traditions provide explicit guidelines for medical therapies, end-of-life care, and reproductive health, significantly impacting patients' healthcare choices. Healthcare professionals must deeply understand these ethical considerations to engage in respectful and culturally attuned discussions with patients about their treatment. This emphasises the importance of advancing patient-centred care by acknowledging and respecting diverse religious beliefs that inform patient choices in healthcare settings.

In Malaysia, Islamic jurisprudential governance comprises fourteen distinctive fatwa institutions, each presided over by a mufti and a committee of individuals from various disciplines (Rosidi et al., 2021a). This decentralised framework ensures a holistic examination of multifarious inquiries and concerns and solidifies these entities' stature as central authorities within their designated jurisdictions. Rosidi et al. (2021b) elucidate that these institutions bear the onus of enunciating fatwas, which carry considerable legal ramifications for the Muslim

populace within the concerned state. Moreover, these bodies are vested with the legal prerogative to engage in judicial proceedings against those who contravene the stipulated fatwas, marking their indispensable role in promulgating Islamic jurisprudence at the state echelon.

The discourse surrounding the provision of Pre-exposure Prophylaxis (PrEP) as a preventative measure against HIV transmission within the LGBT community has engendered divergent stances among the fatwa institutions. The Kedah State Fatwa Department (2023) has articulated apprehensions regarding the prospective consequences of PrEP dissemination, positing that it could potentially exacerbate instances of adultery, a matter deemed of grave concern. Predicated on the axiom that the avoidance of harm supersedes the pursuit of benefit, where harm is equated with adultery and benefit with the diminution of HIV transmission, the department has opted for the prohibition of PrEP provision to LGBT individuals. This perspective aligns with the positions of both the Selangor State Fatwa Department (2023) and Sabah State Mufti (2023), which contend that facilitating access to PrEP for the LGBT community could be construed as condoning behaviour antithetical to the tenets of Maqasid Al-Syariah.

Conversely, the Perlis State Fatwa Committee (2023) has adopted a contrasting viewpoint following a comparative analysis of the ramifications entailed by mandating PrEP versus imposing a ban on the LGBT community. The committee posits that the mandatory provision of PrEP, notwithstanding the potential for inadvertently elevating adultery rates, engenders lesser harm than a comprehensive ban, which could catalyse a wider proliferation of HIV infection. Adhering to the jurisprudential principle that in scenarios where two detrimentals clash, it is prudent to avert the greater by tolerating the lesser, the committee has resolved that PrEP should be made accessible to the LGBT community. This determination underscores the prerogative of mitigating HIV transmission as a paramount consideration.

Thus, the seminal aim of this investigation is to critically evaluate the significance of administering Pre-exposure Prophylaxis (PrEP) and Antiretroviral Therapy (ART) to the LGBTQ+ community in Malaysia within the ambit of Islamic law (Syariah) principles while juxtaposing these interventions.

DISCUSSION

Antiretroviral (ART)

It is imperative to acknowledge the escalatory risk posed by the absence of HIV treatment on the susceptibility to ancillary pathologies such as cancer (Hessol & Strickler, 2017; Jauhari et al., 2022), tuberculosis (TB) (Gupta et al., 2015; Yendewa et al., 2022; Menezes et al., 2022), and hepatitis (Qadir, 2018; Yendewa et al., 2022), among others. Within the Malaysian context, there is a substantial prevalence of co-occurring diseases, notably tuberculosis, hepatitis, and sexually transmitted infections, among HIV-infected individuals. Statistically, the annual incidence of TB diagnosis among HIV patients exceeds 1000 cases (Ministry of Health Malaysia, 2023). Furthermore, the progression of HIV to its terminal stage, AIDS, in the absence of therapeutic intervention is underscored in the literature (Yarchoan & Uldrick, 2018; Have & Neves, 2021). In Malaysia, the progression of HIV to AIDS is reported to affect nearly 23% of the infected population (Ministry of Health Malaysia, 2023).

The efficacy of Antiretroviral Therapy (ART) in individuals diagnosed with Human Immunodeficiency Virus (HIV) has been well documented, particularly in its capacity to forestall the transition to Acquired Immune Deficiency Syndrome (AIDS) and decrease the mortality attributed to AIDS-related complications (Becerra et al., 2016; Kammers et al., 2021; Xiao et al., 2021; Wang et al., 2022). As per the data disseminated by the Ministry of Health Malaysia in 2023, there have been a cumulative total of 62,226 deaths associated with HIV/AIDS in Malaysia up until the year 2022.

Moreover, several nations with a predominantly Muslim population, including Saudi Arabia, Egypt, Jordan, and Turkey, have been proactive in instituting strategies to ensure that individuals diagnosed with HIV have unimpeded access to ART (Baadani et al., 2020; Al-Mozaini et al., 2021; Kabbash et al., 2019; Elsharkawy et al., 2022; Algaralleh et al., 2020; Gökengin, 2022). This includes providing ART free of charge, a critical step towards managing the infection within these communities (Baadani et al., 2020; Kabbash et al., 2019; Algaralleh et al., 2020). This approach not only aligns with public health mandates to curb the spread of HIV but also

reflects an alignment with ethical considerations in healthcare accessibility and equity.

PREP

The use of pre-exposure prophylaxis (PrEP) has become an essential tool in the global battle against HIV transmission (UNAIDS, 2016). Multiple studies have proven the effectiveness of PrEP in reducing the occurrence of new HIV infections in various populations (Blaizot et al., 2017; Akudibillah et al., 2017; Grulich et al., 2019). Recent literature has reaffirmed the safety and efficacy of this preventive measure, emphasising its importance in comprehensive HIV prevention strategies (Celum & Baeten, 2020; Murchu et al., 2021; Bragazzi et al., 2022). Notably, a study by Volk et al. (2015) revealed that individuals adhering to PrEP in a San Francisco cohort experienced no new HIV infections, providing compelling evidence for the crucial role of PrEP in public health efforts against HIV.

To maintain its status as a nation characterised by one of the lowest HIV infection rates worldwide, the Kingdom of Saudi Arabia has embarked on implementing a comprehensive range of preventative measures aimed at mitigating the spread of the virus. Such measures include enhancing health screening protocols for expatriates and workers and establishing mandatory HIV testing as a prerequisite for marriage, as indicated by Farahat et al. (2020) and Al-Mozaini et al. (2021). In a further proactive approach, the Ministry of Health of Saudi Arabia (2024) endorses the regular application of Pre-Exposure Prophylaxis (PrEP) among Men who have Sex with Men (MSM) and transgender persons who have engaged in unprotected anal intercourse within the preceding six months. In contrast, the Ministry of Health in Malaysia is in the preliminary phase of embracing PrEP. It is currently conducting a pilot study to ascertain the effectiveness and safety of PrEP in reducing the risk of HIV transmission.

SHARIAH ANALYSIS

Disease Treatment in Sharia's Perspective

In general, Islam encourages its followers to seek treatment when facing illness. Maintaining good health is considered a blessing from Allah Almighty and is one of the five main aspects of Maqasid al-Shariah that must be upheld (Rosidi et al., 2022). Thus, any treatment, including medication, must alleviate suffering and restore well-being. The teachings of the Prophet Muhammad (peace be upon him) underscore the significance of seeking treatment for illness.

“Seek treatment, O slaves of Allah! For Allah does not create any disease, but He also creates with it the cure, except for old age”. (Hadith Narrated by Ibnu Majah, *Kitab al-Tibb, Chapter Ma Anzal Allah Da' Illa Anzal Lahu Shifa'a*. No. 3436)

“There is no disease that Allah has created, except that He also has created its treatment”. (Hadith Narrated by *Kitab al-Tibb, Bab Ma Anzal Allah Da' Illa Anzal Lahu Shifa'a*. No. 5678)

The mentioned hadith emphasises Prophet Muhammad's (SAW) exhortation to seek treatment and discover cures for all encountered diseases (Al-Safarini, 1993; Al-Qurrah Daghi & al-Muhammadi, 2008). While past and contemporary scholars have discussed the sequence of seeking treatment, Shaikh Muhammad Soleh Al-Uthaimin (2001) summarised their discussions into three fundamental rules.

1. Seeking treatment is mandatory if the patient's condition will lead to self-destruction without it.
2. Seeking treatment is recommended if it benefits the patient, but it is unnecessary if the absence of treatment does not lead to self-destruction.
3. It is better to forgo treatment if it does not benefit the patient's health.

It is crucial to recognise that untreated HIV disease can compromise the immune system, making individuals susceptible to severe illnesses, including AIDS. Therefore, in line with the Ulema debate advocating that patients must seek treatment if not doing so would lead to their demise, HIV patients should also pursue treatment, such as ART, to safeguard themselves from harm and potential destruction.

Disease Prevention in Sharia's Perspective

Disease prevention within the Islamic framework is a critical component of healthcare at both the individual and community levels. Islamic teachings offer explicit guidance on managing diseases, focusing on infectious diseases. Beyond the invocation of prayers designed to ward off illness, Islam significantly emphasises preventing diseases by maintaining personal hygiene. Moreover, Islamic doctrine prioritises preemptive measures to inhibit the inception of such diseases in confronting an infectious disease, as articulated in the teachings of Prophet Muhammad (SAW).

“Cover the vessels and tie the waterskin, for there is a night in a year when pestilence descends, and it does not pass an uncovered vessel or an untied waterskin but some of that pestilence descending into it”. (Narrated by Muslim, Şahīḥ Muslim, *Kitab al- 'Ashribah, bab al- 'Amr bi Tagḥīyat al- 'Inā'*. No 2014)

This hadith exemplifies the directives Prophet Muhammad gave regarding covering food and drink containers as a measure against the proliferation of infectious diseases. The underlying principle derived from this hadith underscores the Prophet's mandate for implementing preventative strategies to curb disease transmission. The notion posited is that, wherever feasible, efforts should be made to avert the incidence of diseases, following the Prophet's guidance. Furthermore, in situations involving contagious illnesses, the Prophet recommended adopting a cautious approach characterised by avoidance and seclusion, as elucidated in the subsequent two hadiths:

If you hear of an outbreak of plague in a land, do not enter it, but if the plague breaks out in a place while you are in it, do not leave that place. (Narrated by Al-Bukhari. *Bab Ma Yuzkar fī al-Taun.* 5728; Muslim. *Bab al-Taun wa al-Tiyarah wa al-Kahanah wa Nahwiha.* No 2219)

“And one should run away from the leper as one runs away from a lion”. Narrated by Al-Bukhari, *Kitab al-Tibb, Bab Al-Judham.* No. 5707)

The narrative above elucidates a prophetic injunction cautioning individuals against entering territories plagued by perilous epidemics, such as cholera, and underscores the imperative of adhering to quarantine directives if an epidemic pervades one's domicile vicinity. An additional prophetic tradition posits the advisability of eschewing interaction with persons afflicted by contagious maladies. Consequently, it is manifest that the Prophet (Peace Be Upon Him) explicitly directed his followers towards mitigating the proliferation of infectious diseases and circumventing exposure to them.

Islam strongly prohibits adultery, homosexuality, and fornication, as they are known to contribute to the spread of HIV in society. Additionally, Islam emphasises the importance of maintaining good health and hygiene. From a health science standpoint, research has consistently demonstrated that male circumcision can lower the risk of HIV transmission (Weiss et al., 2009; Becerre et al., 2016; Farley et al., 2020; Gao et al., 2021). As a result, male circumcision is now recognised as one of the five main pillars of HIV prevention (UNAIDS, 2016) and is widely practised.

It is a widely accepted fact that individuals can prevent HIV infection by abstaining from risky sexual behaviour, which is the leading cause of HIV transmission in our society. Adhering to Islamic teachings, including practising the commandments and avoiding prohibited activities, can significantly reduce the risk of contracting HIV. As a result, it is not surprising that countries with a predominantly Muslim population generally have low rates of HIV, such as Saudi Arabia (Baadani et al., 2020; Alsughayyir et al., 2022), Jordan (Algaralleh et al., 2020), and Egypt (Kabbash et al., 2018). However, maintaining these low rates could be challenging due to the government's inadequate prevention and surveillance policies (Abdel-Tawab et al., 2016; Kabapy et al., 2021).

It is essential to bear in mind that the Prophet SAW promoted measures to prevent infectious diseases and advocated for safeguarding against illnesses like HIV. Therefore, utilising Pre-Exposure Prophylaxis (PrEP) aligns with these principles and serves as a proactive measure to impede the contraction and spread of HIV within society. It is essential to ensure that access to PrEP is not limited to specific groups, as this would obstruct the overall goal of combating HIV. For example, the Lebanese government's policy of providing free PrEP solely to serodiscordant heterosexual couples in Beirut has led to a notable increase in new HIV infections, particularly

among young men who have sex with men (MSM) (Storholm et al., 2021). This trend is consistent with global studies, including those conducted in Malaysia, which demonstrate that MSM constitute the majority of individuals living with HIV and play a significant role in the rising rates of HIV infection in society.

The spread of HIV in Malaysian society is becoming increasingly concerning due to the rising number of cases among teenagers, including those under the age of 14. HIV is a public health issue that affects various groups, and its prevention measures need to be comprehensive and inclusive. Efforts to prevent its spread should focus on addressing the primary cause, which is MSM (men who have sex with men).

Harm Reduction from the perspective of Sharia

HIV, despite advancements in medical science, remains incurable and lacks an effective vaccine as of today (Deeks et al., 2021; Tarimo et al., 2022). While antiretroviral therapy (ART) has shown efficacy in controlling the virus (Kammers et al., 2021; Xiao et al., 2021; Trickey et al., 2023), and Pre-exposure prophylaxis (PrEP) has been effective in prevention (Murchu et al., 2021; Bragazzi et al., 2022), the absence of a cure underscores the significant ongoing impact of HIV. The chronic nature of HIV infection necessitates lifelong management, with individuals facing potential health complications and the necessity for continuous medication adherence. Moreover, the social implications of an HIV-positive status, including stigma and potential discrimination in employment and societal contexts, further exacerbate the individual's burden. In this light, the transmission of HIV is deemed a profound infringement on human rights, bearing considerable ethical considerations and highlighting the need for sustained efforts in reducing transmission, advancing treatment modalities, and enhancing societal support for those affected. It is compulsory to follow the commandment stated by the Prophet below:

“Harm should neither be inflicted nor reciprocated” (Narrated by Ibn Majah. *Kitāb Abwāb al-Aḥkām, Bāb Man Bana fī Haqqihī ma Yadhurru Bijarihi*. No. 2340)

The term "*Darar*" is defined in the lexicon as signifying actions or phenomena that are harmful, detrimental, and dangerous (Ibn Manzur, 2013). Analysing the referenced hadith, it becomes evident that Prophet Muhammad (SAW) delineated an explicit prohibition against conduct that inflicts harm upon oneself or others. This stance articulates that actions characterised by harm align with forms of tyranny, which Islamic Sharia unequivocally proscribes. The exegesis of the hadith above elucidates the Prophet's exhortation towards abstention from tyrannical and harmful behaviours, advocating for a societal ethos grounded in love, kindness, and mutual respect. As posited by the Prophet, this paradigm is instrumental in engendering societal prosperity. Subsequent pronouncements by the Prophet further corroborate the principles established in the initial hadith, reinforcing the imperative of minimising harm and fostering a community based on benevolent principles.

“Whoever harms others, Allah (SWT) will harm him; and whoever causes hardship to others, Allah will cause hardship to him”. (Narrated by Ibn Majah, *Kitāb Abwāb al-Aḥkām, Bāb Man Banā Fī Haqqih Ma Yaḍurru Bijārih*. No. 2342)

Islam explicitly prohibits any form of harm to both nature and humans. In the context of public health, particularly concerning the transmission of HIV, the Islamic viewpoint supports preventative measures. These measures assist not only in safeguarding individuals who have not been infected with the virus but also in aiding those living with HIV by preventing them from inadvertently inflicting harm upon others. This perspective aligns with the directives provided by Prophet Muhammad SAW, underscoring the importance of compassion and responsibility towards the community's well-being.

“Help your brother, whether he is an oppressor or an oppressed one. People asked, “O Allah's Apostle! It is all right to help him if he is oppressed, but how should we help him if he is an oppressor?” The Prophet said, “By preventing him from oppressing others.” Narrated by al-Bukhari, *Kitab al-Mazholim, Bab A'in Akhaka Zoliman Aw Mazluman*. No: 2444.

The revered Prophet SAW has articulated that an efficacious strategy for assisting individuals who perpetrate injustice involves impeding their ability to continue such actions. Neglecting to address their behaviour enables them to persist in their oppressive acts unabatedly (Ibn Bathal, 2003). Contemporary data indicate that a

significant proportion of HIV infections are attributable to sexually active individuals who have not undergone HIV screening and, thus, remain unaware of their HIV status (Samsul et al., 2016; Ng et al., 2020). Furthermore, a subset of individuals diagnosed with HIV+ status continue to participate in unprotected sexual activities, exacerbating the transmission risk (Ranjit et al., 2023). Independent of their intent, awareness level, or understanding of HIV transmission mechanisms, the act of infecting others with the virus, whether deliberately or inadvertently, constitutes a considerable ethical transgression. Therefore, it is incumbent upon all stakeholders to endeavour to curtail the dissemination of this virus. In line with preventative measures, the Ministry of Health advocates for the administration of Antiretroviral Therapy (ART) to individuals diagnosed with HIV, aimed at hindering the virus' transmission to uninfected individuals, alongside the recommendation for Pre-Exposure Prophylaxis (PrEP) as a prophylactic measure for those uninfected, to avert the acquisition of HIV from infected partners.

The availability of ART and PrEP can have negative consequences, as it may lead to a false sense of security about the risk of HIV infection from unsafe sexual behaviour. The increasing prevalence of HIV infection today is mainly attributable to the rise in risky sexual activities. However, without access to ART and PrEP, HIV transmission would continue to be a significant issue in society. Therefore, it is crucial to focus on preventing risky sexual behaviour in order to stop the spread of HIV. If that is not feasible, then efforts should be made to at least prevent the transmission of HIV. This idea is consistent with the principle that if one cannot fulfil a complete obligation, one should still strive to fulfil whatever one can (As Sa'di, 2011). In other words, if it is not possible to address both issues – risky sexual behaviour and the spread of HIV – simultaneously, then efforts should be made to address both to the best extent possible.

The discourse on ART (Antiretroviral Therapy) and PrEP (Pre-Exposure Prophylaxis) unveils a paradoxical phenomenon; these interventions, while instrumental in combating HIV transmission, may engender a complacent mindset towards the engagement in risky sexual behaviours. This false sense of security contributes significantly to the propagation of HIV, as evidenced by the escalation of unsafe sexual practices. Nonetheless, the absence of these medical interventions would undeniably exacerbate the public health challenge posed by HIV transmission. Thus, the quintessence of HIV prevention strategies ought to pivot towards the mitigation of risky sexual behaviours. In instances where the absolute prevention of such behaviours is unattainable, the imperative should shift towards minimising the transmission of HIV. This approach resonates with the philosophical principle articulated by As Sa'di (2011), asserting that in the face of partial impediments to fulfilling an obligation, the endeavour to achieve partial compliance is preferable to total inaction. Concisely, when the dual objectives of curtailing risky sexual behaviour and HIV transmission cannot be simultaneously achieved, concerted efforts must be directed towards optimising outcomes within the constraints of the prevailing circumstances.

CONCLUSION

The increasing incidence of HIV infections among the youth demographic presents a significant public health concern. It is imperative to adopt a holistic approach towards the implementation of both treatment and prevention strategies for HIV, ensuring no demographic segment is overlooked. This is pivotal in attaining the governmental goal of eradicating AIDS by 2030. It necessitates concerted efforts from all stakeholders involved in the fight against HIV in Malaysia. Specifically, the Ministry of Health is called upon to amplify its initiatives directed at the treatment and prevention of HIV among diagnosed individuals and populations identified as being at elevated risk. This is crucial to stem the further transmission of the virus. Moreover, critics of the prevention strategies deployed by the Ministry of Health are encouraged to contribute constructively by suggesting viable alternative measures that can effectively mitigate the proliferation of HIV within the community.

In the context of Malaysia, where the majority of HIV-affected individuals identify as Muslims, entities such as Jakim, State Islamic Religious Departments, Fatwa Committees, and other Islamic institutions must undertake a pivotal role in combating the proliferation of HIV. This necessitates a conscientious effort towards fostering awareness, education, and prevention strategies aligned with Islamic teachings and cultural sensibilities. Furthermore, the academic community is critically responsible for augmenting these efforts through rigorous and comprehensive research across pertinent disciplines. Such scholarly endeavours are essential not only in devising effective HIV control measures but also in enhancing the overall health and quality of life of the

Malaysian populace.

In conclusion, it is ascertained that the administration of Antiretroviral Therapy (ART) and Pre-Exposure Prophylaxis (PrEP) aligns with the dictates of Shariah law when considered within the context of disease treatment, prevention, and harm reduction. Additionally, initiatives aimed at curtailing HIV transmission yield significant benefits for public health and the collective welfare. Notably, the effective management of HIV transmission not only contributes to the preservation of human life but also facilitates the emergence of more robust future generations and lays down a framework for the rehabilitation and societal reintegration of the most vulnerable segments, including the youth and minors. This approach reflects and resonates with the ethical doctrines advocated by the teachings of the Prophet.

“Whoever relieves a Muslim of a burden from the world's burdens, Allah will relieve him of a burden from the burdens on the Day of Judgement. Moreover, whoever helps ease a difficulty in the world, Allah will grant him ease from a difficulty in the world and the Hereafter. Moreover, whoever covers (the faults of) a Muslim, Allah will cover (his faults) for him in the world and the Hereafter. Moreover, Allah is engaged in helping the worshipper as long as the worshipper is helping his brother.” Narrated by Tirmidzi, *Kitab al ‘Ilmun ‘an Rasulillah, Bab Fadl Thalab al ‘Ilm.* No 2570.

REFERENCES

1. Abdel-Tawab, NG, Oraby, D. & Saher, S. (2016). Understanding HIV related vulnerabilities and stigma among Egyptian youth. Cairo (Egypt): Population Council; 2016.
2. Ahmad MZ, Md. Yasin M, Mat Nasir N, & Mohamad M. (2024). The association between HIV-related stigma, HIV knowledge and HIV late presenters among people living with HIV (PLHIV) attending public primary care clinic settings in Selangor. PLOS ONE 19(7): e0306904. <https://doi.org/10.1371/journal.pone.0306904>
3. Ahmed SI, Syed Sulaiman SA, Hassali MA, Thiruchelvam K, Hasan SS, & Lee CK. (2017). Attitudes and barriers towards HIV screening: A qualitative study of people living with HIV/AIDS (PLWHA) in Malaysia. *Journal of Infection Prevention.* 2017;18(5):242-247.
4. Akudibillah G, Pandey A, Medlock J. (2017). Maximizing the benefits of ART and PrEP in resource-limited settings. *Epidemiol Infect.* 145(5):942-56
5. Algaralleh A, Altwalbeh D, & Al-tarawneh F. (2020). Health-Related Quality of Life Among Persons Living with HIV/AIDS in Jordan: An Exploratory Study. *HIV/AIDS (Auckland, N.Z.)*, 12, 897 - 907.
6. Al-Mozaini M, Alrahbeni T, Dirar Q, Alotibi J, Alrajhi A. (2021). HIV in the Kingdom of Saudi Arabia: can we change how we deal with co-infections. *Infect Drug Resist.* 2021;14: 111–117.
7. Al-Qurrah Daghi AMD & al-Muhammadi AY. (2008). *Fiqh al-Qadaya al-Tibbiyyah al-Mu‘asirah.* Beirut: Dar al-Basha‘ir al-Islamiyyah.
8. Al-Safarini SAM. (1993). *Gaza’ al-Albabfi Sharh Manzumah al-Adab.* Jld. 1–2. Mesr: Mu‘assasah Qurtobah.
9. Al-Uthaimin MS. (2001). *Ash-Sharh Al-Mumti' Ala Zad Al-Mustaqni'.* Saudi Arabia: Dar Ibn Jauzi.
10. As Sa'di AN. (2011). *Al Qawa'id Al Ushul Al Jaami'ah.* Saudi Arabia: Muassasah Syaikh Muhammad bin Shalih Al 'Utsaimin
11. Anderson JE, & Kanters S. (2015). Lack of sexual minorities' rights as a barrier to HIV prevention among men who have sex with men and transgender women in Asia: a systematic review. *LGBT Health* 2 (1) 16–26.
12. Baadani AM, Ballool S, Alhemyadi S, et al. (2020). The clinical outcome of HIV infection at a tertiary care centre in Riyadh, Saudi Arabia. *Saudi Med J.* 2020;41: 965–970.
13. Blaizot S, Huerga H, Riche B, Ellman T, Shroufi A, Etard JF, et al. (2017). Combined interventions to reduce HIV incidence in KwaZulu-Natal: a modelling study. *BMC Infect Dis.* 2017;17(1):522.
14. Bragazzi N, Khamisy-Farah R, Tsigalou C, & Mahroum N. (2022). HIV Pre-exposure Prophylaxis and Its Impact on the Gut Microbiome in Men Having Sex With Men. *Frontiers in Microbiology*, 13.
15. Celum C, & Baeten J. (2020). PrEP for HIV Prevention: Evidence, Global Scale-up, and Emerging Options. *Cell host & microbe*, 27 4, 502-506.
16. Chong SCS, Kamarulzaman A, Azwa I, Ng RX, Chong ML, Raman N, Bourne A. (2021). Delayed HIV testing and treatment seeking, and associated support needs among people living with HIV in Malaysia:

- a qualitative study. *Sex Health*. May;18(2):147-155.
17. Croxford S, Stengaard AR, Brännström J, Combs L, Dedes N, Girardi E, Grabar S, Kirk O, Kuchukhidze G, Lazarus JV, Noori T, Pharris A, Raben D, Rockstroh JK, Simões D, Sullivan AK, Van Beckhoven D, Delpech VC. (2022). EuroTEST HIV Late Diagnosis Definition Working Group. Late diagnosis of HIV: An updated consensus definition. *HIV Med*. 2022 Dec;23(11):1202-1208
 18. Dubov A, Altice FL, & Gutierrez JI. (2023). Pre-exposure prophylaxis service among men who have sex with men in Malaysia: findings from a discrete choice experiment. *Sci Rep* 13, 14200.
 19. Elsharkawy A, Salem M, Asem N, Ibrahim W, Ramadan E, Abdelaziz M, Hashish A, Elsayed H, & Hassany M. (2022). Perceived stigma and healthcare services in healthcare settings among people living with HIV in Egypt: a qualitative study. *Transactions of the Royal Society of Tropical Medicine and Hygiene*.
 20. Farahat FM, Alghamdi YS, Farahat AF. (2020). The prevalence of comorbidities among adult people diagnosed with HIV infection in a tertiary care hospital in Western Saudi Arabia. *J Infect Public Health*. 2020;13: 1699–1704.
 21. Farley TM, Samuelson J, Grabowski MK, Ameyan W, Gray RH, & Baggaley R. (2020). Impact of male circumcision on risk of HIV infection in men in a changing epidemic context-systematic review and meta-analysis. <https://doi.org/10.1002/jia2.25490/full>
 22. Gao Y, Yuan T, Zhan Y, Qian HZ, Sun Y, Zheng W, Fu L, Liang B, Zhu Z., Ouyang, L., Liu, M., Fitzpatrick. (2021). Association between medical male circumcision and HIV risk compensation among heterosexual men: a systematic review and meta-analysis. *The Lancet Global Health*, 9(7), e932–e941.
 23. Gökengin D. (2022). HIV Pre-Exposure Prophylaxis in Central and Eastern Europe and Challenges in An Ever-Changing World. *Infect Dis Clin Microbiol*. Dec 21;4(4):223–228. PMID: 38633717; PMCID: PMC10986726.
 24. Grulich AE, Jin F, Vaccher S, Bavinton B, Vickers T, Amin J. (2019). Continuing low HIV incidence in the expanded pre-exposure prophylaxis (PrEP) Implementation in Communities—New South Wales study (EPIC-NSW) [Abstract]. In: Abstracts of 10th International AIDS Society Conference on HIV Science (Mexico City, July 22–23, 2019). *J Int AIDS Soc*. 2019;22(S5); e25327:28.
 25. Gupta R, Lucas S, Fielding K, & Lawn S. (2015). Prevalence of tuberculosis in post-mortem studies of HIV-infected adults and children in resource-limited settings: a systematic review and meta-analysis. *AIDS (London, England)*, p. 29, 1987 - 2002.
 26. Have H, & Neves M. (2021). AIDS (See HIV). *Dictionary of Global Bioethics*. https://doi.org/10.1007/978-3-030-54161-3_50.
 27. Hessel N, & Strickler H. (2017). Cancer risk in people living with HIV. *The Lancet*. HIV, 4 11, e477-e479.
 28. How Lim, S, Alias, H, Ping Wong, L, Lim, H, Kwan Wing Kien, J, Akbar, M, & Kamarulzaman, A. (2019). A Qualitative Study of Hiv “Test-And-Treat” Experience Among Men Who Have Sex With Men In Malaysia. In *AIDS Education and Prevention (Vol. 31, Issue 3)*.
 29. Ibn Baththal AKA (2003). *Syarah Shahih al-Bukhari li Ibnu Baththal*. Riyadh: Maktabah al-Rusyd.
 30. Ishak SH, Yaacob LH, Ishak A. (2021). Knowledge of Pre-Pregnancy Care Among Men Attending the Outpatient Clinics of Hospital Universiti Sains Malaysia. *Malays J Med Sci*. Apr;28(2):119-127.
 31. JadKarim, L, Wickersham, J, Gautam, K, Azwa, I, Saifi, R, Khati, A, Paudel, K, Ha, T, & Shrestha, R. (2023). Correlates of never testing for HIV among men who have sex with men in Malaysia: A cross-sectional study. *PLoS ONE*, 18(11 November).
 32. Jauhari, R., Chauhan, B., & Singh, A. (2022). Hiv-An Infectious Disease That Imposes a Threat To Life. *Journal of Applied Pharmaceutical Sciences and Research*. <https://doi.org/10.31069/japsr.v4i3.1>.
 33. Kabapy AF, Shatat, HZ, & Abd El-Wahab, EW. (2021). Identifying factors increasing the risk of acquiring HIV among Egyptians to construct a consensus web-based tool for HIV risk assessment. *Current Medical Research and Opinion*, 37(6), 973–984.
 34. Kabbash I, Zidan, O, & Shehata, Y. (2019). Antiretroviral Therapy in Egypt: Are There Any Barriers to Medication Adherence? *The Egyptian Journal of Community Medicine*.
 35. Kementerian Kesehatan Arab Saudi. 2024. *Garis Panduan Saudi untuk Rawatan HIV*. Arab Saudi: Program Nasional AIDS Saudi (NAP).
 36. Kementerian Kesehatan Malaysia. (2023). *Global AIDS Monitoring 2022: Malaysia HIV/AIDS progress report*. Ministry of Health Malaysia.

- https://www.moh.gov.my/moh/resources/Penerbitan/Laporan/Umum/MYS_cou ntry_report_2021.pdf
37. Koh KC, Islam M, Chan WK, Lee WY, Ho YW, Alsagoff SAH, Yusof RA. (2017). Missed opportunities for earlier HIV-testing in patients with HIV infection referred to a tertiary hospital, a cross-sectional study. *Med J Malaysia*. 2017 Aug;72(4):209-214. PMID: 28889131.
 38. Li Z, Purcell DW, Sansom SL, Hayes D, Hall HI. (2019). Vital signs: HIV transmission along the continuum of care—United States, 2016. *Morb Mortal Wkly Rep*. 2019;68(11):267.
 39. Mahmud, S, Mohsin, M, Muyeed, A, Islam, MM, Hossain, S, & Islam, A. (2023). Prevalence of HIV and syphilis and their co-infection among men having sex with men in Asia: A systematic review and meta-analysis. *Heliyon*, 9(3).
 40. Murchu, E, Marshall, L, Teljeur, C, Harrington, P, Hayes, C, Moran, P, & Ryan, M. (2021). Oral pre-exposure prophylaxis (PrEP) to prevent HIV: a systematic review and meta-analysis of clinical effectiveness, safety, adherence and risk compensation in all populations. *BMJ Open*, p. 12. <https://doi.org/10.1136/bmjopen-2020-048478>.
 41. Ng RX, Guadamuz TE, Akbar M, Kamarulzaman A, Lim SH. (2020). Association of co-occurring psychosocial health conditions and HIV infection among MSM in Malaysia: Implication of a syndemic effect. *Int J STD AIDS*. 2020 May;31(6):568-578. Epub 2020 Apr 16. PMID: 32299293.
 42. Qadir M. (2018). Hepatitis in AIDS patients. *Reviews in Medical Virology*, p. 28.
 43. Ramli M, Zulkafli Z, Chambers GK, Zilan RSAR, Edinur HA. (2020). The Prevalence of Transfusion-transmitted Infections among Blood Donors in Hospital Universiti Sains Malaysia. *Oman Med J*. 2020 Oct 20;35(6):e189. PMID: 33110633; PMCID: PMC7577371
 44. Ranjit YS, Gibson BA, Altice FL, Kamarulzaman A, Azwa I, Wickersham JA. (2023). HIV care continuum among cisgender and transgender women sex workers in Greater Kuala Lumpur, Malaysia. *AIDS Care*. 2023 Jun;35(6):784-790.
 45. Rosidi MH, Mokhtar AW, & Majid MNA. (2022). The Role of Maqasid al-Shari'ah as a Fundamental Ethics in Social Media Use. *International Journal of Academic Research in Business and Social Sciences*, 12(4), 1285–1301.
 46. Rosidi MH, Mokhtar AW, & Majid MNA. (2021a). The Impact of Social Media on The Acceptance Of Fatwas Among Malaysian Muslims. *Journal of Fatwa Management and Research*, 17-36.
 47. Rosidi MH, Mokhtar AW, & Majid, MNA. (2021b). Profesionalisme Mufti Dan Ahli-Ahli Jawatankuasa Fatwa Negeri: Analisis Terhadap Jawatankuasa Fatwa Negeri Perlis, Pahang Dan Terengganu. *Journal of Fatwa Management and Research*, 71-98.
 48. Samsul D, Razman MR, Ramli M, Mohd Aznan MA. (2016). Knowledge and Attitude towards HIV/AIDS among transsexuals in Kuantan, Pahang. *IIUM Medical Journal Malaysia*, 15(1).
 49. Storholm ED, Mutchler MG, Ghosh-Dastidar B, Balan E, Mokhbat J, Kegeles SM, Wagner GJ. (2021). Gearing up for PrEP in the Middle East and North Africa: An Initial Look at Willingness to Take PrEP among Young Men Who Have Sex with Men in Beirut, Lebanon. *Behav Med*. 2021 Apr-Jun;47(2):111-119.
 50. Ten Brink DC, Martin-Hughes R, Minnery ME, Osborne AJ, Schmidt HA, Dalal S, Green KE, Ramaurtarsing R, Wilson DP, Kelly SL. (2022). Cost-effectiveness and impact of pre-exposure prophylaxis to prevent HIV among men who have sex with men in Asia: A modelling study. *PLoS One*. 2022 May 26;17(5): e0268240.
 51. UNAIDS.(2022). Millions of lives are at risk as progress against AIDS falters [Internet]. Available from: <https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2022/july/20220727-global-aids-update>.
 52. UNAIDS.2019. Prevention Gap Report. 2016c. https://www.unaids.org/sites/default/files/media_asset/2016-prevention-gap-report.pdf.
 53. Volk J, Marcus J, Phengrasamy T, Blechinger D, Nguyen D, Follansbee S, Hare C, Permanente K, Francisco S, & Cen M. (2015). No New HIV Infections with Increasing Use of HIV Preexposure Prophylaxis in a Clinical Practice Setting. *Clinical infectious diseases: an official publication of the Infectious Diseases Society of America*, 61 (10), 1601–3.
 54. Wang T, Gu Y, Ran L, Ta, X, & Peng S. (2022). Ways of HIV transmission in China: The effect of age, period, and cohort. *Frontiers in Public Health*, 10.
 55. Weiss HA, Hankins CA, Dickson K. (2009). Male circumcision and risk of HIV infection in women: a systematic review and meta-analysis. *Lancet Infect Dis*. 2009;9: pp. 669–77

56. Wejnert C, Prejean J, Hoots B, et al. (2018). Prevalence of Missed Opportunities for HIV Testing Among Persons Unaware of Their Infection. *JAMA*. 2018;319(24):2555–2557.
57. Xiao T, Cai Y, Chen B. (2021). HIV-1 entry and membrane fusion inhibitors. *Viruses*. 2021;13: 735.
58. Yarchoan R., & Uldrick T. (2018). HIV-Associated Cancers and Related Diseases. *The New England Journal of Medicine*, pp. 378, 1029–1041.
59. Yendewa G, Lakoh S, Jiba D, Yendewa S, Barrie U, Deen G, Samai M, Jacobson J, Sahr F, & Salata R. (2022). Hepatitis B Virus and Tuberculosis Are Associated with Increased Noncommunicable Disease Risk among Treatment-Naïve People with HIV: Opportunities for Prevention, Early Detection and Management of Comorbidities in Sierra Leone—*Journal of Clinical Medicine*, 11.
60. Zainal N, Abdul Aziz AF, Tan CE, Kamaludin R, Periyasamy P, & Sulaiman, NA. (2023). Pause©: The Case for Developing a Premarital Hiv Testing Aid for Primary Care Settings in Malaysia. *Malaysian Journal of Public Health Medicine*, 23(3), 190–200