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## Testing time in fight against HIV/AIDS

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UNDER that ruling, Muslim couples who wish to marry would have to notify the State religious authorities of their intention three months before the ceremony.

They will then be issued screening forms. A health check-up form, which includes the need for the couple to undergo the HIV screening, will be given. Those who test positive will be required to undergo three-month counselling and treatment. The prospective spouse will also be informed about the partner's HIV+ status (if so positive) after which it will be up to both of them to decide if they want to proceed with the marriage.

Although the Johor state government has since said that the testing is not mandatory, sources report that while it is not compulsory under law, it is under Islam. The reasoning behind this is that according to fatwa, your partner must know of your health status. So Muslims have been told if they are serious about their religion, then they should.

This is why it is difficult for Muslim couples to refuse the test.

Just how this will prevent the spread of this disease eludes many.

"That testing IS prevention is not true," says Datin Paduka Marina Mahathir, president of the Malaysian AIDS Council. "It only tells you what your current status is.

"If it is not accompanied by counselling, testing does nothing."

According to World Health Organisation representative Dr U.H. Susantha de Silva, compulsory testing seems attractive because it looks like a quick fix.

"People still perceive HIV testing as a US-THEM issue. It makes constituents think legislators are doing something about the epidemic," he says.

Dr de Silva says that testing programmes which do not require the informed consent of the involved individuals can be damaging to HIV/AIDS prevention efforts and are therefore not in the interest of public health.

"WHO does not recommend mandatory testing," he says.

"These tests are damaging because of the stigma and discrimination that would arise, and this would drive people underground. They also damage the credibility of health services (because of the forceful instead of helpful approach). Laboratory errors and the window period may result in false negative results, which can give people a false sense of security. And these tests are expensive."

"Instead of using the funds for testing, they can be channelled to educational and counselling programmes," says Marina.

Dr de Silva also says that even if such a programme is offered, it should only be on a voluntary basis with proper counselling services.

"Malaysia is not really a high prevalence country, so (we) should concentrate on focused intervention instead of working in a general way. Target the high-risk groups," he advises.

To provide a medical perspective on the testing issue, Dr Christopher Lee of the Malaysian Medical Association AIDS committee drew attention to the example of the "Illinois Experience".

"In 1988, a law dictated that no marriage licence would be given to anyone unless they went for a HIV test first. Was this effective by any means? Out of the 70,846 applicants, eight were found to be HIV-positive. The tests cost the government US\$2.5 million (RM9.5 million)."

To avoid the test, many couples simply left the State to get married.

"Mandatory testing has been proven to fail," says Dr Lee, who is also a MAC exco member.

In the Asia-Pacific region, Johor is the only State that has launched such a programme.

Cuba, Mongolia and other places have attempted to put into practice similar programmes, but they were abandoned for the same reason the Illinois project was.

On effective preventive measures, Dr Lee stresses that the key to prevention is in the counselling and not in the testing. And as far as health checks are concerned, there are many more blood-borne diseases, such as Hepatitis B and C.

"Why pick on HIV? This does not help destigmatise the disease at all. Other infections should be considered as well. The fundamental principles in a doctor-patient relationship is one of trust and confidence," says Dr Choong Kuo Shiang, a MMA Ethics Committee member.

"Mandatory testing strikes at the core of this relationship. It infringes constitutional rights. Medical confidentiality is the central element in the fight against AIDS."

Lawyer M. Puravalen of the Bar Council Malaysia shed some light on the legal and constitutional aspect of mandatory testing.

"There is a law covering this issue but it is both outdated and archaic.

"It was enacted in a different era to handle diseases such as the bubonic plague. It is not being used today for good reason. The coercive use of law can never change human conduct.

"What is happening in Johor is constructive coercion. The fact that you have three months to take the test already renders the argument that the test is voluntary void. The Government is dictating a time constraint, which places a large amount of pressure on the affected couples."

Puravalen also questioned the legitimacy of such a decision.

"The State health department comes under national policy. The mandatory tests are not subscribed to at national level. Can the State contradict federal policy? And who will administer the tests? Who is trained in counselling? Does Johor have the resources and the expertise?"

Echoing the others, Puravalen stresses on the importance of pre-testing counselling.

"Just playing a short video and asking sudah faham? isn't enough. A good place to insert a meatier pre-testing education kit may be the Kursus Pra-Perkhawinan that all Muslims must go through before exchanging their nuptial vows.

"A complete module on HIV/AIDS should be included in the course," says Marina, "not just a one-line question on the disease to determine awareness."

The Women's Aid Organisation challenges the premises underlying mandatory testing.

"Mandatory testing accepts the notion that women cannot refuse sex because as wives, they have to comply with their husbands desires," says Ivy Josiah, WAO's executive director.

"Women can prevent themselves from being infected if their husbands use condoms. But given unequal gender relations between men and women, especially if there is violence, it can be difficult for women to assert their rights. Programmes must address gender inequality.

"Mandatory testing also works on the premise that once a couple is found to be HIV negative (before marriage), then, they will be safe during the marriage. There is no guarantee that there can be no infection within the marriage," says Josiah.

Social norms encourage men to seek sex outside marriage and discourage women from questioning them. Addressing gender inequality would again be a

step towards effective preventive measures.

WAO recommends that discrimination against women be eliminated.

"Boys and men must be educated on the harmful concepts of masculinity while women and girls must be educated and empowered on the issue of HIV/AIDS," says Josiah. "And testing must be voluntary, accessible and confidential."

Speaking as a volunteer within MACs Legal and Ethics Committee, Mehrun Siraj used the example of Islamic laws on polygamy to show how inefficient making the tests mandatory would be.

"By analogy, Johoreans can simply leave the State and get married elsewhere.

"Even if you have all the States agreeing to mandatory testing, they can still go to Thailand or Indonesia. And the ones who will avoid testing will be the ones who suspect that they have been infected," says Mehrun, who is also a Suhakam Commissioner.

"The State Government has not thought things through. The legal issues have not been considered. You can't wait for problems to arise and then think of the solutions.

"The fatwa was issued by the State Fatwa Council. Were they given the full information before they made their decision? If they had, they may have realised that testing does nothing to help the parties involved. If the fatwa was based on the information given, it can be easily changed with new information."

There seems to be a great deal of confusion on the nature of the testing. Reports indicate that while the test is compulsory, a couple may decide not to. And if they do not, they will be counselled so as to persuade them to.

"Wajib means 'must', so how a couple can decide not to take a mandatory test is contradictory. Also, what is the difference between compulsory and mandatory? If we (people in the know as far as HIV/AIDS is concerned) are confused, what more the public?" asks Marina.

"We believe that the State government has the best interests of Johoreans at heart but if they had full and complete knowledge of the issue, they would have realised the full implications of the policy.

"As part of our damage control efforts, we have printed small cards with our infoline number so that we can help them with whatever information they require.

"This doesn't mean we are supporting the mandatory testing, but simply trying to soften the blow. Testing will not alter behaviour."

But does prevention work?

There are many facets to effective preventive measures, but as long as stigma, discrimination, lack of education, low awareness, misinformation, gender inequality and confusing messages still exist, the battle will remain a hard one to win.

"Prior to this, we had so-called established high-risk groups," says Marina. "Sex workers, drug users and others, but today, we have a new high-risk group: Muslim men and women intending to get married. And that too, only from Johor."

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