

## Playing Politics With AIDS Controversy Over Mandatory Vs Voluntary Testing in Goa

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**O**n the previous World AIDS Day, December 1, 2005, the Government of India declared its intention to make pre-marital HIV testing mandatory. As soon as the United Nations stated that this may not be done, it retracted its statement and said the policy is under consideration. Having already drawn up the draft policy, the Government called for a public debate to discuss the pros and cons of pre-marital mandatory testing. The debate should have taken place before the formulation of the draft. This is no way to go about making policies. There is no transparency or consistency in the Government's dealings. AIDS is a very serious matter. Playing politics with AIDS will backfire on the government and cost the common man dearly. Tear up that draft, Mr. Health Minister, and then let us talk.

The discussion in Goa indicates what would be involved in implementing a mandatory policy in India. The Government of Goa plans to make pre-marital HIV testing mandatory in Goa. Many individuals welcome and support the Government's move. Most NGOs and many private individuals oppose it.

### Quick Fix Solutions

The demand for mandatory testing stems from a public fear about HIV, coupled with lack of accurate information about the disease. People

want quick-fix solutions. The idea is to identify the carriers of HIV and possibly isolate "them" from "us", so that "they" are left to meet their own fate, whilst "we" are safe.

No cure or vaccine for AIDS exists and the number of infected people is escalating. These terrifying facts put pressure on the legislators to try anything that might make a difference and possibly pacify the public. The motivating factor behind the proposal of mandatory testing is thus political, rather than health related.

The Goan Government claims it wants to be the first State in India to make testing mandatory in order to empower women. But even marriage registration sometimes backfires on women who are not aware that it takes two signatures to register a marriage in Goa - the first declares intent and the second, fifteen days later, solemnises the marriage. Many women go home after entering their first signature and do not return for the second, happily believing

themselves to be married, only to see their world shattering when their 'husband' remarries and leaves them destitute. An HIV testing report stating the husband to be negative will also lead the wife into a similar false sense of security and trust that could be broken the very next day by the husband acquiring the disease.

### Risks of Mandatory Testing

Registration of marriage is compulsory in Goa. So what happens? Many couples go across the border to other states in order to get married. Making HIV testing mandatory in one state is going to have a similar effect, if both parties are uninformed about the implications and the necessity of the test. Mandatory testing could undermine the importance of the registration of marriage by making it more burdensome. More and more people recognize the importance of marriage registration and make it a point to register their marriage even in states where registration is not compulsory and a religious ceremony is accepted as a legally binding marriage. Mandatory HIV testing will prove to be a great setback to this trend.

The Government claims that it wants to make testing mandatory in order to empower women, because it may not be otherwise possible for them to demand a test from their prospective husbands. Is it then ever

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possible that, within their marriage, if such a woman suspects her husband of infidelity or possible infection by HIV, she will be able to demand a re-test from him? When it is not possible for the married woman to say 'no' to her husband for sex, how will it be possible for her to ask him to stop visiting commercial sex workers, to wear a condom or ask the husband to test himself? Will the state step in then to help the married woman assert her rights, and if yes, how does it propose to do that? When the

state cannot protect women from domestic violence and marital rape, how does it profess to protect them from HIV?

Neither does the policy address the issue of premarital sexual violence or other abuse against women (by stepfathers, uncles, boyfriends or strangers). On the contrary, it further victimises a woman who could turn HIV positive through this forced traumatic abuse of unwanted and/or unprotected sex. And when such a woman wishes to marry, she will be forced into testing, 'exposed' and further stigmatised.

### **Easy to Buy Bogus Reports**

The test will give the client a report stating whether he/she is positive or negative. Our lives are full of reports and certificates. People get jobs upon showing various degree certificates that universities and colleges are supposed to have conferred on them, whereas the respective institutions have never even heard of them. We have pollution control certificates for our vehicles, which certify that our vehicle is pollution-free and the very next day, some adulterated fuel or lubricant, or a faulty engine system makes a mockery of the certificate.



Some people will also obtain falsified negative reports. Testing will become merely another source or channel for corruption. The day after the testing, the individual could indulge in high-risk behaviour and turn positive. Should we keep retesting the individual? What are the criteria for continuous testing, once the marriage is solemnized? What about the astronomical cost of retesting lakhs of individuals every so many months?

Then, there is a question of false positives. Even if a person has not indulged in high-risk behaviour, he/she will have to compulsorily test before marriage and if falsely found positive, will be stigmatised and his/her life will be ruined forever, because of a report that proclaims a positive status incorrectly. HIV testing has become a modern morality test. Accepting the accuracy of the test if it is negative

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is sometimes seen to prove that the person has a spotless character. Declining the test could raise suspicions that there must be something to conceal. Similar to false positives, there are false negatives. Thus, even mandatory testing cannot detect all infected people entering into marriage.

### **Challenges of Counselling**

Already, the quality of HIV counselling in the country has become a cause of concern. Making testing mandatory will deteriorate it further. Proper counselling includes outlining

the risk of transmission to partner and children, benefits of early treatment, maintenance of confidentiality in giving the test results and follow-up health-care. Proper counselling would motivate a large number of people to test voluntarily. When the same objective/outcome can be attained while avoiding intrusion into the privacy of individuals and violation of their human rights, it is better to drop the idea of mandatory testing.

Voluntary HIV testing is more effective than mandatory testing as a medium of dissemination of HIV information and prevention services to more persons, including unborn babies and infants.

The general public does not realise the full implications of an HIV testing report. A simple 'yes' or 'no' might change the person's life forever. Counselling points out all the possibilities and courses of action in case of either result. Some people are weak, without any family or friends for support, or have suicidal tendencies. A skilled counsellor has to detect such personalities and give them courage. A false positive could have a devastating effect on such a person's life. A negative test result could lull the person into a false

sense of security, encourage a casual attitude and lead to indulgence in high-risk behaviour without proper precautions.

### **Violation of Privacy**

In voluntary testing, the individual's privacy is sought to be protected. But in reality, once a patient is found to be positive, the entire ward knows about it. Goa is a small state where everyone knows everyone else. The news spreads like wildfire and the friends/relatives/co-workers of that person begin to shun him/her. In such a situation, people are scared to test. They need to be intensively persuaded to come forward voluntarily to test themselves, and people are increasingly coming forward in greater numbers, thanks to the NGOs and the support systems formed over the years. Mandatory testing will increase the stigmatisation and prove to be counter-productive, throwing all this hard work out of gear. These people will be scared off and go underground.

HIV transmission can occur amongst the unmarried, those already married, from mothers to their babies, through infected needles, infected blood and blood products. How does pre-marriage mandatory testing prevent these modes of transmission? Does pre-marital mandatory HIV testing imply that a person cannot have a pre-marital affair, but is free to have, after marriage, an extra-marital affair?

Why make testing mandatory before marriage? How about mandatory counselling and voluntary testing? Along with a public awareness campaign, the Government could include a pre-marriage counselling facility at the Registrar's office, where the couple wishing to marry could undergo premarital counselling. Then, if one



of them refuses to test, the other could question 'why'? There would be a discussion that could lead to voluntary testing. But forcing them to test would immediately make them seek other avenues of marriage.

Outreach and education can significantly improve HIV testing acceptance and has the principal effect of reducing the number of HIV positive individuals and thereby, infants.

### **International Experience**

The Council of Europe has adopted a recommendation stating that "In the absence of curative treatment, and in view of the impossibility of imposing behaviour modifications

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and the impracticability of restrictive measures, compulsory screening [is] unethical, ineffective, unnecessarily intrusive, discriminatory and counter-productive."

According to WHO's statement from the 1992 consultation on Testing and Counselling for HIV Infection: "Mandatory testing and other testing without informed consent has no place in an AIDS prevention and control programme." Further, it states, "There are no benefits either to the individual or for public health arising from testing without informed consent that cannot be achieved by less intrusive means, such as voluntary testing and counselling."

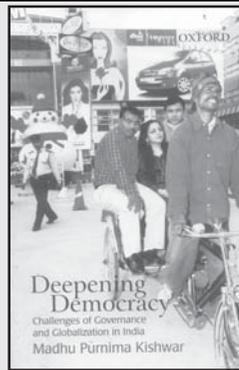
Several debates have been held on the issue of mandatory testing. There have been numerous attempts, all over the world, to make the testing of pregnant mothers, newborn babies, prison inmates, perpetrators/accused of sexual crimes, commercial sex workers, health-care workers,

immigrants, etcetera, mandatory, and almost all have either failed or been rejected, or are under reconsideration. Compulsion is never the solution to any social problem; social awareness and education is the only answer.

### Coercive Laws Backfire

In trying to use law to contain the spread of HIV/AIDS, we have to be careful not to send the wrong message to the society and divide the community between those with HIV/AIDS and those without. Public health experience demonstrates that programmes that do not respect the rights and dignity of individuals are not effective. It is essential, therefore, to promote the voluntary co-operation of individuals, rather than impose coercive measures on them. An excellent example of this is India's sterilization drive, which led to political as well as social backlash. It caused upheaval in the government and set back India's family planning programme by at least two decades.

The goal of voluntary testing is to ensure that the client fully understands the risk to his/her life and that of others, and takes steps to prevent further spread of infection, if any and to change his/her own behaviour if found to be risky. The purpose of HIV testing should be to engage him/her in appropriate health care. Mandatory testing will drive some people, who are already sceptical about the health care system, further away from it. It is unlikely to cause the changes in behaviour necessary to prevent the spread of HIV. It might discover a minor proportion of the so-called 'dangerous population', but it will scare off a large percentage of people, thereby proving to be counter-productive. It is, therefore, a serious waste of time, energy and public funds. □



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