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The impact of routine HIV testing on HIV-related stigma and discrimination in Africa

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Abstract

This paper discusses different methods of human immunodeficiency virus (HIV) testing, particularly routine and voluntary HIV testing methods, which have been adopted in response to the HIV epidemic in Africa. It then examines the importance of HIV testing as a tool for the prevention and treatment of infected and affected persons. The paper argues that although routine HIV testing is important in scaling up HIV testing in Africa, it may not necessarily address HIV-related stigma as contended by some commentators. Rather, it is argued that routine HIV testing, as practised in many African countries, may fuel HIV-related stigma and violate individuals' fundamental rights guaranteed in numerous human rights instruments. In conclusion, the paper cautions that any attempt at adopting routine HIV testing in Africa should be tempered with respect for people's human rights.

Keywords

Routine HIV testing, stigma and discrimination, human rights, Africa

Introduction

Nearly three decades into the human immunodeficiency virus (HIV) pandemic, stigma and discrimination remain barriers to an effective HIV response in many parts of the world, particularly Africa. HIV-related stigma not only undermines efforts at addressing the epidemic, but also infringes on the human rights of people infected

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and affected by HIV. Although modest successes have been recorded with regard to stemming the spread of the epidemic in Africa and more people than ever are now receiving HIV treatment,[1] all these are being threatened by the stigma still attached to the epidemic. Indeed, studies have shown that one of the reasons why people refuse to test for HIV is the fear of negative reactions from friends, family members or the community as a whole.[2] Thus, a substantial number of people in the region do not know their HIV status. Surveys across sub-Saharan Africa have revealed that about 12% of men and 10% of women have been tested for HIV and obtained their results.[3] This development is counterproductive to reducing the spread of the epidemic in Africa. Generally, testing for HIV has always been done through the voluntary counselling and testing (VCT) method. However, experience has shown that this approach has not really achieved the desired result as only a small percentage of the people have made use of it.

Given the disappointing nature of voluntary HIV testing, it is now being contended that mandatory or routine HIV testing be adopted, especially in high-prevalence areas, such as Africa. Mandatory testing is often described as a form of testing that will occur as a condition for other benefits, such as getting employment, migrating to another country, getting married or accessing medical treatment. With regard to mandatory HIV testing for pregnant women, such a test is often made a condition precedent for providing care for these women, and thus overriding the need for their consent. Routine HIV testing, on the other hand, means that HIV testing is made part of a treatment to a patient unless he or she declines to be tested, that is he or she 'opts out'. Unlike in the case of mandatory HIV testing, routine HIV testing seems to give regard to a patient's right to autonomy because the test is conducted only when a patient consents to it. Both forms of testing, however, differ from the well-accepted approach of VCT – also known as the three 'C's or 'opt in' – which emphasises pre- and post-test counselling, informed consent and confidentiality of the test result.

There is no doubt that identifying and implementing an appropriate HIV prevention programme is crucial to reducing and reversing the spread of the epidemic. Such a programme must include the adoption of an HIV testing method that will not only encourage people to ascertain their status but that will also be respectful of their fundamental rights. As the region hardest hit by the epidemic, studies have shown that HIV transmission in Africa is mainly due to unprotected sexual intercourse (heterosexual and homosexual) and transmission from the infected pregnant woman to the unborn child. In 2009 alone, it was estimated that 370,000 children were infected with HIV through mother-to-child transmission, representing a significant drop of 24% when compared with 5 years ago (about 500,000 children were infected then).[4] Although this is a great improvement in advancing the health of mothers and children, particularly in Africa, there remain challenges in eliminating the possibility of mother-to-child transmission of the epidemic. In particular, prevention of mother-to-child transmission programmes would need to respond to the needs of pregnant women with HIV in Africa. Thus, such programmes must be culturally, scientifically and medically sensitive to the needs of pregnant women and, above all, must respect their fundamental rights to autonomy and dignity.[5]

Against this backdrop, this paper discusses different methods of HIV testing, particularly routine and voluntary HIV testing methods, which have been adopted in

response to the HIV epidemic in Africa. It then examines the importance of HIV testing as a tool for the prevention and treatment of infected and affected persons. The paper argues that although routine HIV testing is important in scaling up HIV testing in Africa, it may not necessarily address HIV-related stigma as contended by some commentators. Rather, it is argued that routine HIV testing as practised in many African countries may fuel HIV-related stigma and violate individuals' fundamental rights guaranteed in numerous human rights instruments. In conclusion, the paper cautions that any attempt at adopting routine HIV testing in Africa should be tempered with respect for the human rights of the people.

HIV testing as a pathway to reduction of the spread of HIV

About 30 years after the first case on HIV was reported, its negative effects have continued to threaten lives in most parts of the world, particularly sub-Saharan Africa. Although recent figures tend to show that the spread of the epidemic is declining or stabilising in many countries, the devastating effects of the epidemic have not abated. The United Nations Joint Programme on HIV/AIDS (UNAIDS) has reported that at the end of 2009 there were about 33 million people living with HIV worldwide.[6] Of this figure, Africa accounts for about 23 million, that is 68% of people living with HIV. The report indicates that across the world, particularly in the hardest hit regions such as Africa, efforts targeted at reducing the spread of HIV are beginning to yield positive results. According to the report, HIV incidence has fallen by 25% between 2001 and 2009 in 33 countries, of which 22 are in sub-Saharan Africa. At the end of 2009, there were an estimated 2.6 million people who became infected with HIV worldwide, about one-fifth fewer than the 3.1 million people infected in 1999.[7] In sub-Saharan Africa, it was estimated that 1.8 million people became newly infected with HIV in 2009, lower than the 2.2 million people newly infected in 2001.[8]

However, significant gaps still exist with regard to the number of people who are aware of their HIV status in many African countries. For instance, in Burundi a study has shown that fewer than one in five persons know their HIV status.[9] A household survey in Ethiopia has shown that previously untested men and women were more likely to be infected than their counterparts who had previously accessed testing services.[10] There is growing evidence to show that inadequate testing rates may impede national AIDS responses and lead to late entry into medical care for HIV-infected persons and unknowing HIV transmission, particularly among sero-discordant couples. For example, a study in Uganda has shown that HIV-positive persons who knew their HIV status were more than three times more likely to use a condom during their last sexual encounter than those who did not know their status.[11]

HIV testing remains a very crucial pathway to care, treatment and support for those infected and affected by the epidemic. In other words, the more people are tested and are able to determine their HIV status, the more likely they are to commence treatment and receive the necessary care and support services. This will prevent negative behaviours from those infected, and consequently reduce the spread of the epidemic in the community.

Traditionally, the well-known method for HIV testing is VCT. This method lays emphasis on pre- and post-test counselling. In the earliest days of the HIV epidemic, HIV counselling played a major role in preparing people to ascertain their HIV status and to cope with the negative consequences that might arise from such a decision.[12] Usually, the counselling process involves evaluating the personal risk of transmission and how this can be prevented. Moreover, counselling helps in preparing an individual for possible emotional, social and psychological issues, which may result from HIV testing.[13]

An important element of VCT is the requirement for an individual's consent before the process for HIV testing is commenced. This element makes the VCT method one of the widely acceptable modes of HIV testing. As noted earlier, the counselling process is in two stages, pre- and post-test periods. During the pre-test counselling, an individual receives information about HIV and the importance of ascertaining one's status. This stage also involves sharing information about sexuality, relationships, coping with HIV status and adopting a responsible sexual lifestyle regardless of the outcome of the test.[14] More importantly, myths, misconceptions and misinformation surrounding HIV/acquired immunodeficiency syndrome (AIDS) are addressed and clarified. The consent of the individual is then formally sought before the test is conducted.

At the post-test counselling stage, an individual is prepared for the possible outcome of the HIV test. This stage also involves providing other relevant information associated with HIV, including management of opportunistic infections and referral services.[15] There is also discussion for possible follow-up visits, seeking treatment, adherence to antiretroviral drugs, disclosure of status and encouraging sexual partners to go for an HIV test. As seen from these procedures, VCT not only entails a detailed process to prepare an individual for an HIV test, but is also highly participatory and respectful of an individual's fundamental rights. This is very significant, particularly in a region such as Africa, where serious human rights issues often arise in the context of HIV/AIDS.

However, despite these positive aspects of VCT, some of the challenges militating against its effective implementation in resource-limited regions such as Africa include the dearth of qualified healthcare providers, inadequate resources and poor infrastructure, lack of testing centres and unwillingness on the part of the people to ascertain their HIV status. Indeed, it is a source of concern that despite the adoption of VCT, many people in regions worst affected by the epidemic still do not know their HIV status. Owing to this major challenge, some commentators have recommended for a shift from the VCT method of testing to a more pragmatic mode of testing, such as routine HIV testing or even mandatory HIV testing.[16]

In recent times many countries in the regions hardest hit by the HIV epidemic have been forced to adopt routine HIV testing, especially with regard to mother-to-child transmission of the epidemic. This is further bolstered by the World Health Organization (WHO)/UNAIDS guidelines on provider-initiated HIV testing, which were released in 2004[17] and revised in 2007.[18] The guidelines recommend that in the countries with high HIV prevalence, HIV testing should be offered to pregnant women, people seeking services for other sexually transmitted infections and asymptomatic persons where HIV is prevalent and antiretroviral therapy is available. More importantly, the guidelines further emphasise that pre-test counselling should form part of routine HIV testing and that people should know that they have the right to refuse testing. It is important to note that

the WHO guidelines make a distinction between 'routine offer of HIV testing' and 'routine testing'. The former is hinged upon acceptance or refusal by the patient to be tested, whereas the latter leaves the patient with no choice but to be tested.

In 2006, the US-based Centers for Disease Control and Prevention (CDC) equally issued a guideline recommending routine HIV testing for all Americans aged between 13 and 64 years. According to the CDC, routine HIV testing implies that all patients would be told that HIV testing is a routine part of medical care and they would be tested unless they declined.[19] Indeed, the CDC specifically recommends that the requirement for obtaining consent before HIV testing is carried out be done away with, contrary to the VCT approach discussed earlier. This radical approach is aimed at increasing the number of people who know their HIV status so as to reduce transmission. The CDC notes that people do not generally go for HIV testing because they do not consider themselves at risk.[20] The relevance of this guideline is that it underscores some of the challenges associated with knowing one's HIV status and recommends a pragmatic approach to addressing these challenges. This shows that even in a country with a low prevalence of HIV, testing for HIV is problematic.

Owing to the urgent need by African countries to reduce mother-to-child transmission of HIV in the region, some of these countries have resorted to the routine HIV testing method to scale up HIV testing in their jurisdictions. In many mother-to-child transmission preventative programmes across the region, pregnant women attending antenatal clinics have been offered an HIV test as part of the services rendered to them. African countries that have adopted routine HIV testing for their HIV prevention programmes include Malawi, Uganda, Botswana and Zimbabwe.[21] This has led to an increase in the number of people ascertaining their HIV status. Moreover, it has led to an improvement in the number of people receiving HIV treatment, particularly with regard to prevention of mother-to-child transmission of HIV. Indeed, it has recently been reported that Botswana is one of the few countries in Africa to achieve universal HIV treatment (i.e. over 80% coverage) for its citizens.[22]

Arguments in favour of routine HIV testing

Some of the arguments that have been canvassed in support of routine HIV testing include the fact that it encourages people to ascertain their HIV status. One of the challenges with the VCT method of testing is that it leaves the decision to test entirely in the hands of the patient. Experience has shown that fewer people than expected have actually taken advantage of this method to ascertain their HIV status. In the case of routine HIV testing, a healthcare provider often initiates the idea of testing for HIV during routine medical services. The implication of this is that a patient, though not desirous of knowing his or her HIV status, may be prompted to take an HIV test.[23] The result is that more and more people will know their HIV status and will probably prevent the spread of the epidemic to others.[24]

Another argument that has been adduced in support of routine HIV testing is that its procedure is less cumbersome than that of VCT. Although consent of patients is required, the process is not as elaborate as that of VCT. One of the earliest proponents of routine HIV testing, De Cock et al. have noted that the strict

adherence to human rights principles of consent as part of VCT has led to fewer people knowing their HIV status.[25] Thus, they argue that the requirement for consent before HIV testing should be reconsidered in favour of routine HIV testing, with less attention to the need for consent. This is known as the argument against 'AIDS exceptionalism', which has been echoed by other commentators.[26] De Cock et al. further argue that the situation in Africa warrants a drastic response; hence, there is a need for emergency public health measures, which must be unencumbered by the 'need to protect individual freedom'.[27] Moreover, in some cases the process of obtaining consent of patients may be conducted in groups, especially in the case of women attending antenatal care. This not only saves time and resources, but it also makes HIV testing more accessible to the people.[28]

Perhaps one of the most significant arguments in favour of routine HIV testing is the fact that it removes the undue importance attached to HIV testing, and thus demystifies HIV as a 'special' or 'deadly' disease. Proponents of routine HIV testing have argued that because this method of testing will encourage more and more people to ascertain their HIV status and possibly obtain treatment, it is possible that stigma and discrimination associated with the epidemic will be reduced. It is further argued that the strict adherence to human rights principles required by VCT before HIV testing is conducted, which does not apply to other diseases, merely fuels the stigma and discrimination associated with HIV.[29] Moreover, it is argued that as routine HIV testing does not assess a patient's sexual history or behaviour, more people will be encouraged to ascertain their HIV status.

There is some truth in the argument that routine HIV testing may increase the number of people knowing their status. Indeed, studies in some countries have shown an uptake in HIV testing when routine HIV testing was introduced. For instance, at one hospital in rural Uganda, the proportion of pregnant women with documented HIV status at discharge from the hospital more than doubled from 39% to 88% after routine testing was introduced.[30]

Also, when Botswana changed its testing approach to routine HIV testing in 2004, it immediately increased testing rates from 75% to 90%.[31] In a study conducted in Botswana, the majority of respondents (60%) agreed that routine HIV testing results in decreased discrimination against HIV-positive people. About 55% of respondents believed that it reduces violence against women, while 89% and 93% believed it makes it easy for people to be tested and gain access to treatment, respectively. On the other hand, about 43% of respondents believed that routine HIV testing will cause people to avoid seeking medical attention.[32]

One of the greatest challenges facing HIV prevention programmes in most African countries remains that of the stigma associated with the epidemic. The reason why many people still do not know their HIV status is because of the fear of stigma and possible discrimination they may experience if they tested positive. It is, however, believed that routine HIV testing will remove this fear of stigma as many people are tested without their sexual history being scrutinised. The logic behind this argument is that as more people embrace HIV testing, the less likely they are to experience the stigma attached to the epidemic. It is important to note that a similar argument has been canvassed in favour of mandatory HIV testing.[33] The validity of this assertion will be considered later.

Some human rights challenges relating to routine HIV testing

While the discussion above has shown some of the advantages of routine HIV testing and the positive results from its implementation in some African countries, there remain some human rights challenges relating to this method of testing. Opponents of routine HIV testing have argued that this method of testing gives little attention to the human rights of patients, particularly the right to autonomy.[34] The requirement for informed consent before HIV testing protects the human right to security of person. Under Article 9 of the International Covenant on Civil and Political Rights (ICCPR),[35] it is provided that everyone shall be entitled to the right to liberty and security of person. This article further provides that no one shall be deprived of his or her liberty except as stipulated by law. With regard to the right to health, the Committee on Economic, Social and Cultural Rights, in its General Comment 14, has noted that the content of the right to health includes freedoms and entitlements.[36] The former relates to respect for bodily integrity of an individual and refraining from medical treatment or experimentation without the consent of an individual. The International Guidelines on HIV and Human Rights further emphasise that testing for HIV should be carried out only after informed consent of an individual has been duly obtained.[37]

Because emphasis is on the scaling up of HIV testing, little or no regard is given to advancing individuals' autonomy. This may lead to some ethical challenges and erode the fundamental rights of patients. One of the essential principles of medical treatment, especially with regard to HIV, is that a patient must give valid consent to any treatment.

In some cases consent may be required in writing. However, with routine HIV testing this long-established principle may be undermined as the health provider rather than the patient initiates testing. Although routine HIV testing requires that patients are only to be tested if they consent to such a test, in reality this is not often the case. Owing to a lack of proper understanding of this method of testing, some healthcare providers often resort to routinely testing patients for HIV without adherence to proper procedures.

In addition, routine HIV testing raises some concerns with regard to women attending antenatal care services. It is often believed that subjecting pregnant women to routine HIV testing will not only reduce the spread of HIV but also preserve the lives of unborn children. While this argument may seem reasonable, the challenge is that some of the women who participate in this programme, especially those who are illiterate and poor, may be 'coerced' into testing for HIV simply because others are doing it. Thus, their right to freely decide whether or not to be tested is infringed. Also, in a desperate bid to meet targets routine HIV testing may be conducted in such a way that it pays little or no attention to patients' rights. Rennie and Behets[38] argue that this approach to testing may run into some hitches in developing countries. This may include the inability to properly inform patients of this model of testing and lack of adherence to proper ethics. Moreover, it may lead to a lack of decision-making power by patients, especially in Africa where the opinion of medical personnel is accorded so much respect, and thus leads to a situation where patients agree to be tested simply to show respect to authority.[39] Similarly, patients are unlikely to opt out of testing for the fear that their doctor may react to them negatively for doing so.

Above all, this model also may result in discrimination against women as it is targeted in many African countries at women attending antenatal care. It is a recognised principle of international human rights law that all individuals must be treated equally before the law. Subjecting pregnant women to routine HIV testing is likely to place an undue burden on women and further reinforce prejudices and discrimination against women in society. One study has shown that pregnant women who were found to be HIV positive were refused admission and delivery at hospitals.[40] The concept of non-discrimination is recognised in numerous international and regional human rights instruments. For instance, Article 2 of the ICCPR proscribes discrimination on various grounds. Similarly, Articles 2 and 3 of the African Charter provide for equality of all individuals before the law and prohibit discrimination against an individual on various grounds, including other status.[41]

With regard to women, Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) defines discrimination as follows:

> Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.[42]

States parties to the treaty are, therefore, enjoined to take steps and measures to eliminate discrimination against women within their territories. Reaffirming the language of CEDAW, the Protocol to the African Charter on the Rights of Women (African Women's Protocol) requires states to remove practices that discriminate against women and urges states' parties to take all appropriate steps to eliminate social and cultural patterns and practices that are discriminatory to women.[43] It defines discrimination against women widely to include:

> Any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their mental status, of human rights and fundamental freedoms in all spheres of life.[44]

It should be noted that women are disproportionately affected by HIV infection in most parts of Africa, and women are subjected to various human rights abuses because of their HIV status.[45] The situation is exacerbated by cultural and religious practices, which often undermine the human rights of women and relegate them to the background. In many parts of Africa, women are still viewed as 'homemakers' and 'child-bearers', and thus are in a weak position.[46] This often makes it difficult for them to negotiate safer sex with their partners. Experience has shown that women are more likely to test for HIV than their male counterparts. The consequence of this is that women are easily exposed to violence and other negative reactions when they test positive for HIV. Subjecting women to routine HIV testing may not necessarily address this challenge.

Moreover, subjecting pregnant women to routine HIV testing is often aimed at reducing the incidence of mother-to-child transmission of HIV and not to meeting the needs of infected pregnant women. This approach undermines the rights to dignity, health and non-discrimination of women guaranteed in international and regional human rights instruments.[47] Indeed, a report has shown that while antiretroviral therapy for preventing mother-to-child transmission of HIV has increased tremendously in many parts of Africa, only about 15% of HIV-positive pregnant women have received antiretroviral therapy in the region.[48] This clearly indicates that more efforts are needed from African governments to scale up treatment for HIV-positive pregnant women in the region. It should be noted that Article 14 of the African Women's Protocol requires African governments to take steps and measures with a view to ensuring accessible, affordable, acceptable and quality healthcare services to all women in the region.[49]

Furthermore, the argument that routine HIV testing will minimise the negative effects of stigma and discrimination associated with HIV would seem to be misleading given the fact that HIV-related stigma and discrimination are borne out of sociocultural factors, which may not necessarily be addressed by routine HIV testing. In fact, fears are being expressed by some commentators that routine HIV testing may fuel stigma and discrimination associated with HIV.[50] This is because it will lead to more people knowing their HIV status, especially women, and probably expose them to some negative attitudes and other challenges (including violence and rejection) often associated with being HIV positive. More importantly, fears are being expressed that where illiteracy is high, as is the case in many African countries, the success of routine HIV testing may be threatened. This is because many people may not fully understand why they are taking the test or the implications of the test for their lives.

Indeed, experience has shown that in countries where routine HIV testing has been implemented, stigma and discrimination associated with HIV have not been eliminated. This tends to show that the problem of HIV-related stigma and discrimination reflects ignorance and negative attitudes to HIV rather than method of testing. Therefore, this challenge requires creating more awareness that will dispel fears and misconceptions relating to HIV and ultimately lead to behavioural change among the people. Also, there is a need for African governments to create an enabling environment in the context of HIV/AIDS where people can be encouraged to ascertain their HIV status without fear of being victimised or abused.[51]

Equally, there is a need for greater protection of the rights of people infected and affected by HIV/AIDS. In this regard, it may be necessary for African governments to enact appropriate antidiscrimination laws and policies that will ensure that HIV-positive persons do not suffer human rights violations or abuses. The mere adoption of routine HIV testing may not necessarily translate to behavioural change. While it is true that routine HIV testing may lead to an increase in the number of people tested for HIV, this may not necessarily lead to a positive outcome. On the contrary, routine HIV testing may further aggravate violence, fear and other negative attitudes associated with HIV status.[52]

Sadly enough, after about three decades into the HIV/AIDS epidemic, many people infected or affected by the epidemic still encounter discriminatory practices on a daily

basis. Discriminatory practices against HIV-positive persons persist in almost every facet of human endeavour. Studies have revealed that HIV-positive persons encounter discrimination in the healthcare setting, workplace, accommodation, religious places, family and community.[53]

It is also important to note that the success or otherwise of routine HIV testing will depend on the availability of HIV treatment for those in need. Unfortunately, in many African countries access to HIV treatment remains a great challenge. While it is admitted that, compared with 2001, there has been a tremendous improvement in the number of people accessing HIV treatment worldwide, only 37% of those in need of treatment in sub-Saharan Africa (the region worst affected by the epidemic) are currently receiving it. In addition, a great disparity still exists with regard to access to antiretroviral therapy to prevent mother-to-child transmission of HIV.[54] For example, while some countries such as Botswana, Namibia and South Africa in the southern region have achieved about 80% coverage for antiretroviral therapy to prevent mother-to-child transmission, most of the countries in the western and central parts of Africa are still lagging behind.[55] The case of Nigeria is particularly disappointing as the country accounts for about 36% of the gaps in coverage to prevent mother-to-child transmission of HIV.[56] For a region that has continued to bear the burden of the HIV epidemic, this figure is disappointing. This may provide an indication that the argument suggesting that routine HIV testing will lead to better access to treatment and reduction in stigma associated with HIV may not be entirely correct.

While it may seem necessary in the face of an overwhelming public health emergency to uptake HIV testing, this should be done only where individuals' rights are protected. Indeed, UNAIDS/WHO,[57] realising this point, state that, 'The global scaling up of the response to AIDS, particularly in relation to HIV testing as a prerequisite to expanded access to treatment, must be grounded in sound public health practice and also respect, protection, and fulfillment of human rights standards.' Experience has shown that healthcare providers in many parts of Africa have continued to constitute sources of HIV-related stigma and discrimination. Apart from refusing treatment to HIV-positive persons, some healthcare providers are often in breach of their obligations to safeguard the confidentiality of their patients' medical records,[58] which is clearly unacceptable. Such negative attitudes pose a great threat to the success of routine HIV testing and the overall efforts at addressing the impact of HIV/AIDS in Africa.

Unless proper care and attention is paid to these challenges by African governments, we may find a situation where respect for ethics and human rights are jettisoned but defended in the name of scaling up HIV testing. This really portends grave danger for the continent. It must be noted that the African Commission, in one of its resolutions relating to HIV, has emphasised that any efforts at addressing the epidemic in Africa must be respectful of individuals' fundamental rights.[59]

Conclusion

This paper has discussed the various arguments often canvassed in support of routine HIV testing in regions worst affected by HIV. The paper has identified some

of these arguments to include the fact that routine HIV testing is less cumbersome than VCT, less expensive, encourages people to ascertain their HIV status, facilitates HIV treatment and reduces stigma associated with HIV as it removes the special importance attached to HIV. It has been argued that although routine HIV testing may increase the number of people ascertaining their HIV status, there are certain human rights concerns that need to be addressed. The widely recognised principles of medical ethics, which require informed consent before treatment, may be undermined by routine HIV testing. Given the fact that routine HIV testing is initiated by a health provider to a patient seeking medical care, this testing method may violate an individual's right to autonomy as recognised in numerous human rights instruments.

Moreover, the argument that routine HIV testing will reduce stigma and discrimination associated with HIV may have been exaggerated as HIV-related stigma and discrimination are rooted in sociocultural practices of the people, which may not be necessarily addressed by this method of testing. The paper also discussed the views of the commentators who have argued that as routine HIV testing is often targeted at pregnant women attending antenatal care, it may constitute an act of discrimination in violation of international and regional human rights instruments that guarantee the right to non-discrimination. This may be sending a wrong signal that only pregnant women are at risk of HIV in society, shifting attention away from other members of society who may be at risk of HIV infection.

Despite the relative success recorded in the adoption of routine HIV testing in some African countries, there is a need for caution as regards this method. In particular, any attempt to scale up HIV testing must be grounded in respect for individuals' fundamental rights. While routine HIV testing may be desirable to increase the number of people who know their HIV status, it should not become a substitute for education and awareness campaigns to correct misconceptions and ignorance often associated with HIV in many parts of Africa.

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Notes

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32. Weiser SD, Heisler M, Leiter K, et al (2006) Routine HIV testing in Botswana: a population-based study on attitudes, practices, and human rights concerns. *Plos Med* 3: e261, 1013 at 1017.
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34. See Csete and Elliott, supra note 29 at 1.
35. International Covenant on Civil and Political Rights, G.A. Res. 2200, U.N. GAOR, Supp. No. 16 at 52, U.N. DOC. A/6316 (1966), 999 U.N.T.S. 171, 174 (entered into force on 23 March 1976). (Herein after ICCPR.)
36. General Comment No. 14, supra note 5.
37. Adopted at third International Consultation on HIV/AIDS and Human Rights (Geneva, 25-256 July 2002), organised by Human Rights Office of the United Nations High Commissioner's Office for Human Rights and Joint United Nations Programme on HIV/AIDS.
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41. African Charter on Human and Peoples' Rights OAU Doc CAB/LEG/67/3/Rev 5, adopted by the Organisation of African Unity, 27 June 1981, entered into force 21 October 1986.
42. See Article 1 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), GA Res 54/180 UN GAOR 34th Session Suppl. No. 46 UN Doc A/34/46 1980.

43. See Article 2 of the Protocol to the African Charter on the Rights of Women (African Women's Protocol), adopted by the 2nd Ordinary Session of the African Union General Assembly in 2003 in Maputo CAB/LEG/66.6 (2003) entered into force 25 November 2005, which drew its inspiration from Article 2 of CEDAW.
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