



## Issue Paper: *Current Debates on HIV Testing and Counseling*

### **Defining the Issue**

Over 20 years ago, policy and programmatic approaches to HIV testing emerged in a context of great fear about HIV/AIDS and about how to prevent HIV infected individuals from transmitting the virus. As testing methods were developed, HIV testing assumed an important role in epidemiological surveillance,<sup>1</sup> and as treatment became available, on individual testing for clinical purposes. Yet, as national responses to the emerging epidemics unfolded, numerous States argued that the protection of public health warranted compulsory testing requirements of certain populations considered to be “high risk”, mandatory testing for access to certain goods and services, named reporting of those found to be infected and sometimes contact tracing and mandatory notification of partners, family, employers or community members. The realities of stigma, discrimination and the neglect of human rights protections were recognized to keep people away from prevention and care, and creating fertile ground for people not to get tested and, unaware of their HIV status, to further spread the virus. This recognition led to a bridge between those concerned with human rights protections and those concerned with public health imperatives.

Over time, the components of supportive testing became clearer, the concept of voluntary counseling and testing (VCT) was promulgated and policy direction from GPA/WHO centered on making voluntary counseling and testing an important focus of all national responses to the HIV/AIDS epidemics. This policy, further elaborated by WHO and UNAIDS remains in place today.

While there were occasional flare-ups with one government or another imposing mandatory testing of certain populations or allowing the use of HIV test results to bar people from access to certain goods, entitlements or services, for the most part conventional wisdom recognized the utility of the VCT model. Successful projects aimed at expanding access to VCT multiplied but a lack of attention and resources, meant that they were not sufficiently scaled-up. As a result, a fraction--perhaps 5 percent of people living with HIV in developing countries--are currently aware of their infection status. Other significant changes have also occurred in the HIV/AIDS landscape in recent years. These changes include the prospect of care and treatment of HIV disease becoming more widely available, technological advancements that have simplified and reduced the cost of testing, the exponential growth of the HIV epidemics and of tuberculosis around the world, and finally the fact that many public health practitioners, particularly those living in high prevalence countries, have been calling for the expansion and "routinization" of HIV testing. Taken together, these events have resulted in enormous changes in the perception of, approaches to and content of HIV testing on the part of public health practitioners and policy

makers worldwide.<sup>2</sup> It is critical that the evolving global response to HIV/AIDS continues to build on the powerful synergy between public health and human rights.<sup>3</sup> We therefore need to re-examine approaches to HIV testing in light of these changes and to submit recommendations to UNAIDS.

### **Current Efforts**

Although antiretroviral therapy has become more widely affordable, access and actual use of this therapy has not expanded as was hoped. One obstacle to progress is the low coverage of HIV testing which is argued to be in large part due to low demand, in turn attributed to persisting stigma attached to HIV. In response to this, there is growing pressure from some health professionals to enforce HIV testing in more stringent ways than the voluntary form that has until now been the norm. The argument made is that this will ensure care and treatment is more widely used, stigma minimized and, as a result, prevention care and support programs made more effective.

Several recent global initiatives may have direct bearing on the call to scale up and increase access to HIV testing and counseling. These include commitments made by the Global Fund, the World Bank's multi-country HIV/AIDS efforts, UNGASS, and the US administration's recent \$15 billion fund. The WHO has specifically set a target of 3 million people having access to antiretroviral therapy by 2005. In addition, WHO has recently begun to emphasize expanding access to HIV testing and counseling.<sup>4</sup> Some countries are also looking to take "bold steps" to increase the numbers of people who are tested. The appropriateness of bringing human rights into these efforts is being severely questioned in recent literature and in statements by public health officials. In general, the contention is that HIV/AIDS should be recognized as an emergency and therefore addressed within a "public health approach" the apparent assumption being that human rights are in some way antithetical to this.<sup>5</sup>

Reference is increasingly being made to routine testing, although the specifics of what this entails, and the boundaries within which this can occur, remain unclear. At issue is whether HIV testing should be expanded on a routine basis within health care services, or more generally, and if so, in each case, under what circumstances. In broad terms, it is unclear in different situations if the language of routine is being used in relation to the routine *offer* of an HIV test within health care services, the routine *imposition* of a test within those services, or even more broadly in relation to the imposition of a test at universities and other locations -- very close to what has traditionally been discussed under the rubric of mandatory testing. Advocates argue that implementing routine testing, however defined, will enable a greater number of HIV infected individuals to know their status, be motivated to change their behaviors and prevent transmission, seek available care and support and treatment, if available, and plan for their futures and those of their family members. Although rights of individuals can be restricted for public health purposes, to scale up HIV testing successfully and have a positive impact on the epidemic, specific attention must be given to the human rights implications of the various elements of HIV testing and attention given to the implications of routinization in its various forms. The application of frameworks such as the Siracusa Principles, adopted by the UN Economic and Social Council in 1985<sup>6</sup> may be useful.

### Elements of HIV Testing

Discussions of scaling up HIV testing and counseling often take place at a level of generality that is not conducive to a systematic human rights analysis. It may be worth organizing thinking in relation to the following three elements which individually and in combination raise separate health and human rights concerns:

- I The purpose of the HIV test
- II The practice of the HIV test
- III The implications of a positive HIV test

These elements deserve in-depth analysis from both health and human rights perspectives. The determination of whether rights are being sufficiently respected, protected and fulfilled, including whether the public health gains may be sufficient to justify any limitations of human rights requires attention to the perceived and actual health or social benefits of the chosen approach to HIV testing, the strength of the evidence on which the decision is being made, and the implications of a chosen testing strategy for particular individuals or populations, in a specified location and at a given time.

In light of the various initiatives to scale up HIV testing, attention to refining human rights guidance and thinking in this respect is critical. To launch an effective and resolute response, there must be a methodical human rights and public health analysis of HIV testing and counseling.

### Supporting Documents

1) Outline of the Elements of Testing, by Reference Group Secretariat.

*This Issue Paper was prepared by the Reference Group Secretariat to facilitate discussion at the Reference Group's August 2003 meeting*

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<sup>1</sup> Tomasevski, K., Gruskin, S., Lazzarini, Z., & Hendriks, A. AIDS and human rights. In: Mann, J, Tarantola, D.J.M., & Netter, T.W. (Eds.) *AIDS in the World*. (1992). Harvard College: Boston, MA.

<sup>2</sup> De Cock, KM, Mbori-Ngacha, D & Marum, E. (2002). Shadow on the continent: Public health and HIV/AIDS in Africa in the 21<sup>st</sup> century. *The Lancet*, 360: 67-72.

<sup>3</sup> Gruskin & Loff. (2002). Do human rights have a role in public health work? *The Lancet*, 360: 1880.

<sup>4</sup> WHO. (2003). *The Right to Know: New Approaches to HIV Testing and Counselling*. WHO: Geneva.

<sup>5</sup> De Cock, Mbori-Ngacha & Marum. (2002). *See note 2*.

<sup>6</sup> ECOSOC. (1985). *The Siracusa principles on the limitation and derogation provisions in the international covenant on civil and political rights*. ECOSOC: Geneva.