

WORLD HEALTH ORGANIZATION

GENEVA, 1 DECEMBER 1988

WORLD AIDS DAY IN FOCUS

HIV - TO TEST OR NOT TO TEST

WORLD HEALTH ORGANISATION

GENEVA 1 DECEMBER 1988

WORLD AIDS DAY

IN FOCUS

HIV - TO TEST OR NOT TO TEST

The Honourable Justice M D Kirby  
Australia

I think no one could have any moral or ethical qualms about anonymous, unidentifiable testing of samples of blood for statistical purposes. But that is not what the community means when it is talking about "mandatory testing". What is meant is either mandatory testing of the whole of the population or of particular groups. In many countries the latter has already been implemented, but I am not sure that any country has yet implemented the former.

It is very important to keep in mind the economics of morality. That is to say, to consider not only the moral quality of decisions but also that decisions cost money to implement. The recent United States law on mandatory testing of particular groups (for example, applicants for marriage licences) has now come into force in a number of States. A review showed that it cost \$US228,000 to detect an HIV-positive applicant; it also revealed that in the State

in question applications for marriage licences fell by 25%. So when we consider the laws or policies that are introduced to provide for mandatory testing of, say, prisoners (who are a vulnerable group), we have to ask what we are going to do with the figures when we get them? When we think about mandatory testing of marriage licence applicants, we have to ask ourselves, is this going to be effective? What are we going to do about the very small number of HIV positive applicants that we find? And - above all - is it money well spent or would that money be better spent on education? Are we going to prevent HIV-positive applicants from getting married? Or are we simply going to require that each partner give informed consent to marriage notwithstanding knowledge of the test result?

As to testing the whole population, we have to keep in mind the enormous cost of such a measure and also the fact that the results would never be entirely accurate. The test for the antibodies would not detect the virus. Moreover, a person might "pass" one day and yet "fail" if a repeat test were conducted the next. So it is not a very effective way to spend the health dollar in fighting AIDS. I think the message that should go round the world from this World AIDS Day is that the cheapest, most effective control of AIDS is through public education. Most citizens have tuberculosis and other infectious diseases in mind when they think that mandatory testing of the whole population is the way ahead.

The experts have to tell the world that AIDS is different. Mandatory testing would be ineffective, inordinately expensive, and carry in its train very great risks of discrimination.

Obviously if a proposed line of action does not work, then there is no point in pursuing it. The second question is, is it legal? Well, every state can make it legal or illegal according to its own legal system. I do not really think that creates much of a problem. However, it is relevant to the first question because there is tremendous pressure upon politicians to do something. This pressure will be growing. I am afraid that people who find themselves in this predicament would be impatient with the debate which we have just had. That is why the first question is so important. As Dr Dawson says, we must base our policies on good data: good ethics will grow out of good data. If we know that it is grossly cost-ineffective to test the whole population, then it is pointless for us to pursue that solution. And yet, probably the majority of people would think that is just what we should do, remembering the old diseases like tuberculosis.

We who know a little more about HIV and AIDS have to try to explain to public leaders and to our communities that mandatory testing of the whole population is an exorbitantly expensive and grossly ineffective response to this pandemic.

There are going to be tremendous demands on our resources because of HIV and AIDS. So we have to spend our money most effectively. Mandatory testing also carries the risk of very great discrimination - and that is a very significant cost.

I must say that I was very impressed to hear that condoms are made available to prisoners in Switzerland. They will not do that in most parts of Australia. Instead there is mandatory testing of prisoners. But what use is this? We then know who is infected in the prison population. So testing may have some marginal epidemiological value. But simply to take that data and not to provide prisoners with the means of stopping the spread of the virus in prisons seems to me to be very serious hypocrisy on the part of the authorities. Sadly, there is going to be a great deal of hypocrisy before this epidemic has run its course. I would suggest that in a lot of countries, including my own, we can learn from what is being done elsewhere. We should all be ready to copy useful initiatives.