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Tests a must: The decision to make pre-marital HIV screening mandatory comes in the wake of the steep rise in HIV infections among Malaysian women. But is it foolproof?

A clean start, but nothing's foolproof

The pre-marital HIV screening for Muslim couples intending to get married does not ensure that either party will not be at risk in the future.



MARRIAGE is a union between two persons. In most cases, it would mean a couple advancing in their relationship to be united in holy matrimony.

One would have thought that the couple would have known each other really well to have agreed to such a union.

In December 2008, Deputy Prime Minister Datuk Seri Najib Tun Razak said beginning from this year, all Muslim couples would have to undergo mandatory screening for HIV before they could get married.

Currently, a few states have made it mandatory for couples to undergo the HIV screening prior to getting married. These states include Kelantan, Negri Sembilan, Sabah, Sarawak and Selangor.

So far, non-Muslims have been spared the requirement, but it may be that it will not be long before such requirement extends to them. The Deputy Prime Minister also spoke about the need for a study on whether to make HIV screening mandatory for non-Muslims.

While Muslims have to go through a marriage course before they get married, non-Muslims are not subject to such a course. Najib conceded that "we do not know how society will react to this proposal", (*The Star Online*, Dec 21, 2008).

The decision to make pre-marital HIV screening mandatory is in the wake of the recent high number of HIV cases. Infections among Malaysian women have increased from 1.1% in 1990 to 16.3% in 2007.

Johor was the first state to implement such a test in response to the increasing incidence of HIV infection, especially among women in the state.

Other states that have followed in Johor's footsteps are Selangor, Kelantan, Terengganu, Perak, Perlis, Kedah, Penang and Malacca. In Sarawak, Sabah and Pahang HIV screening is optional.

The Malaysian AIDS Council (MAC) is against the decision to make pre-marital HIV screening mandatory.

Hot on the heels of the Government's announcement, Prof Dr Adeeba Kamarulzaman said: "We would like to once again reiterate that mandatory testing for all Muslim couples before marriage is not the solution."

Among the MAC's reasons is the stigma associated with HIV. It argued that the screening will discourage individuals, especially those at risk of infection, to come forward and be tested voluntarily.

Violation of human rights

Although in principle it agreed that such testing is a good idea (as it helps to prevent innocent people from getting infected), it should not be forced upon anyone as it violates human rights.

Further, once a person is identified as HIV-positive, there is no guarantee that such information will not be shared with the rest of the world.

I am sure some of us have heard of society discriminating against HIV-positive patients and their families after the result was revealed.

Is mandatory testing the solution to cut down on the number of HIV cases?

Previously, the push for HIV screening was focused on the high-risk group of people, i.e. drug users, prisoners, and sex workers, to name a few.

Pre-marital HIV testing may help to prevent the transmission from one spouse to another or to their offspring.

However, there is the flaw in the

reasoning: it is only useful at that point in time. There is no guarantee that in the future, one or both parties will not be exposed to risks of transmission of HIV.

A negative result does not guarantee that your partner will remain negative thereafter. One may continue to put oneself at risk of HIV through one's extra-marital activities and drug use.

Why then do we stop at pre-marital screening for HIV? What about dangerous diseases transmitted through sexual intercourse such as gonorrhoea and syphilis?

There is also the issue of costs. HIV testing is not cheap, and HIV drugs are not cheap, although I believe that advanced technology has made it cheaper compared to 10 years ago.

I am not married myself and there is no immediate plan to walk down the aisle. Yet! But I do not think that I should be forced to be tested for HIV before I get married.

It should be my choice. What if I test positive? Does that mean I cannot marry my future husband? What about the disclosure of information? How would the other family react, and the community as a whole?

This is the dilemma that real people face.

Even if I do plan to go for screening, I will not stop at just HIV; I will do the whole package.

Next on the agenda: to push for cheaper medication and access to medical treatment?

The writer is a member of the Bar Council's National Young Lawyers Committee (NYLC). Putik Lada, or pepper buds in Malay, captures the spirit and intention of this column - a platform for young lawyers to articulate their views and aspirations about the law, justice and a civil society. For more information about the young lawyers, please visit www.malaystarbar.org.my/nylc.