



PRESS STATEMENT – WORLD AIDS DAY, DEC 1, 2008  
**FOR IMMEDIATE RELEASE**

## **Mandatory HIV testing does more harm than good**

by the Malaysian AIDS Council and Malaysian Positive Network (myPlus)

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Kuala Lumpur, Monday, Dec 1 2008, Today on World AIDS Day, as we reflect on how to simultaneously prevent more people becoming infected with HIV and meet the needs and protect the human rights of people living with HIV, we call for renewed leadership in eradicating stigma, discrimination and human rights violations associated with HIV.

We draw special attention to coercive policies such as mandatory HIV testing which are both discriminatory and violate human rights as laid out in several international treaties, including the right to privacy and personal autonomy.

The recent announcement by the Department of Islamic Development (JAKIM) to extend nationwide pre-marital HIV testing for all Muslims in Malaysia is alarming. Scaling up HIV counselling and testing services is a critical step for scaling up HIV prevention, treatment, care, and support. Knowing your HIV status is a crucial part of managing HIV but the manner in which this is done is of the utmost importance.

Malaysian AIDS Council President, Prof Dr Adeeba Kamarulzaman said "The 3C's should always be used as a gold standard for testing: consent, counselling and confidentiality".

Prof Dr Adeeba stressed that, women's NGOs, the Ministry of Health and the Malaysian Medical Association had denounced the policy when it was first introduced by the State of Johor in 2001. However, despite the move to further implement this policy nationwide, there have been no attempts to involve, engage and consult any individuals and organizations working on HIV and issues affecting women.

"HIV is, and must remain, a public health issue to be addressed by the health sector." said Prof Dr Adeeba.

Although the policy has not been made fully available to the public, we understand that there is a provision that allows health workers or religious authorities to notify one's partner and their family of the other partner's HIV status. It is necessary that each person who receives a positive HIV test result be counselled by a trained health professional and given assistance about informing his/her partner and family about his/her status. No healthcare provider or religious authority should be authorized to make that decision for individuals. "The mandatory partner notification provision may discourage people from testing and accessing treatment for HIV," said Prof Dr Adeeba.

In addition, forcing couples to take pre-marriage HIV tests might create a false sense of security should the results turn out negative. Couples should be encouraged to undergo the tests themselves and those tested positive be given counselling. The test results could also turn out



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negative during the 3 to 6-month window period after infection (when a person can be infected with HIV but the HIV test is unable to detect the infection).

“When the policy was introduced in 2001, neither the Johor State Government nor JAKIM conducted any studies to monitor the impact it would have on people living with HIV and their families, especially women. However, we know that women in particular, due to their lower status in society, are more likely than men to be vulnerable to discrimination, violence, abandonment and ostracism, if they are found to be infected with HIV. This has already occurred here in Malaysia,” said Lela Mokhtar, committee member, Malaysian Positive Network (myPlus), a national network for people living with HIV.

JAKIM has assured the public that those found to test positive for HIV would still be allowed to continue with the marriage if both partners agree to go ahead and to be given counselling and advice on preventive measures. We are encouraged by this recognition and positive assurance which ensures that people living with HIV have the right to marry.

However, HIV testing- which should be voluntary – should not just be followed by counselling and advice, but be part of a comprehensive package of prevention, care, and support services and increased access to treatment. Moreover, as stigma and discrimination continue to be barriers to HIV prevention, treatment, care and support, this policy may drive those infected with HIV underground and not achieve its purported goal of protecting public health.

We call on JAKIM and the Government to:

Utilise the existing Ministry of Health policies and services to ensure that voluntary HIV testing be conducted under the following three principles:

- **Consent** – people should be tested only with their informed, voluntary and specific consent,
- **Counselling** – counselling should be provided before and after HIV testing, and
- **Confidentiality** – HIV testing should only occur when confidentiality of results can be guaranteed.

1. Make the proposed policy available for public review and comment.
2. Remove mandatory premarital HIV testing.
3. Provide HIV information and education in pre-marriage courses.
4. Draft anti-discrimination legislation to protect the rights of people living with HIV.
5. Ensure civil society and other relevant key stakeholders are consulted on any policy formulation in relation to HIV

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