

Not Truly Mandatory? Not Fully Voluntary? An Empirical Study of Taiwan's Implementation of HIV Screening Laws

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Abstract

This article analyzes how Taiwan's HIV screening laws authorized under Article 15 of the HIV Infection Control and Patient Rights Protection Act was implemented by conducting qualitative interviews with local health officials and committee members of the Protection of Rights and Interests of Infected Persons. It finds that: first, the law stipulates that the competent authority "should notify for examination" but in reality is that the subject "should be subject to examination." Second, mandatory screening of service men, military officers, noncommissioned officers and standing soldiers are not carried out by the competent authority authorized by law; mandatory HIV screening of drug addicts, STD patients and newborns are actually performed on a voluntary opt-in basis by health care providers. Third, local health officials mainly conduct mandatory screening on suspects of drug users or sex traders seized by the police or contacts of HIV-infected persons; however, due to regulatory flaws that cause diversified understanding of laws among local health practitioners, the reality that HIV screening cannot be directly enforced, and officials' preference of persuasion strategy rather than fining people refusing screening to avoid disputes and to achieve evaluation objectives, mandatory HIV screening is implemented in a not really mandatory nor completely autonomous manner. There is a lack of evidence about the validity of the purpose of mandatory HIV screening among certain populations; the professed public health benefits of mandatory HIV screening tend to be based on illusion. Mandatory HIV screening is not an appropriate and necessary means of reaching significant public health interests. Laws authorize

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mandatory HIV screening should be repealed; public health program should adopt an opt-in model and maximize the benefits of voluntary screening by eliminating the factors impeding individuals seeking testing, including losing control of personal information after receiving testing, the risk of discrimination and criminalization of HIV exposure.

Keywords: AIDS, HIV, testing, screening, the HIV Infection Control and Patient Rights Protection Act, autonomy