

AIDS: What to Do—And What Not to Do

Of those dead and dying from AIDS three-quarters are gay men. Thousands have been felled by the disease. As things stand, government funding for patient care is virtually non-existent and preventive funding has risen significantly only as AIDS has come to be perceived as a threat to the dominant, non-gay culture. What should the government be doing—and not doing—to meet the mounting crisis?

What Not to Do: Quarantine

The aim of preventing harm to potential innocent victims is largely non-controversial. The defense of individuals from substantial harm from others is on any account a chief warrant for governmental action, and for governmental coercion. But care must be taken in how that aim is realized.

Already state-mandated discrimination against groups at risk for AIDS has begun in employment and access to services—allegedly on medical grounds, but in pointed contradiction to judgments of the Department of Health and Human Services, the Centers for Disease Control, and the National Institutes of Health. This trend takes on alarming proportions when coupled with the recognition that prisons and quarantines are distinguishable neither in terms of the harms from which society would protect itself, nor in terms of the harms they inflict on “offenders.” As leper colonies have shown, it is silly to suppose that internment of the innocent does not stigmatize them.

The current hysteria about AIDS on the part of the general public, when not simply a manifestation of already existing anti-gay prejudices, is based on the presumption that the disease is spread indiscriminately. But the most important fact about AIDS for public policy purposes is not that it is deadly but that it, like hepatitis B, is caused by a blood-transmitted virus. What this means is that for the disease to spread, bodily fluids of someone with the virus must directly enter the bloodstream of another. And not just any bodily fluid will do. To effect contagion, a certain concentration of the virus is required in the fluid, and though the virus has been found in tears and saliva, it seems not to occur in them beyond the threshold concentration. Thus, in countries with reasonable sanitation, groups at risk for the disease are clearly circumscribed: 96 percent of cases have clearly demarcated modes of transmission and cause.

Admittedly, in countries without adequate sanitation blood-transmitted viruses are rampant. If a population

prone to cuts and abrasions bathes in the same water in which it bleeds and urinates, it will have blood-transmitted viruses dispersed widely through its membership. Perhaps a quarter of the Third World suffers from hepatitis B, which in the United States infects exactly the same groups that are at risk for AIDS and yet has never been a great cause of social or government concern.

The case for general indiscriminate contagion cannot be made out. In consequence government policy based on that fear—in particular quarantines of AIDS-exposed persons—is unwarranted.

What Not to Do: Paternalism

The mode of contagion for AIDS ensures that those who are at risk are those whose actions are a contributing factor to their risk of infection—chiefly through intimate sexual contact and shared hypodermic needles. (A small exception is newborns of infected mothers. For this set of cases social policy should be whatever it already is for cases of parents who pass fatal congenital disease to their children.) It is the general feature of self-exposure to contagion that makes direct government coercive efforts to abate the disease particularly inappropriate.

If independence—the ability to guide one’s life by one’s own lights to an extent compatible with a like ability on the part of others—is, as it is, a major value, one cannot consistently with that value prevent people from putting themselves at risk through voluntary associations. For mutual consent guarantees that the “compatible extent” proviso of the independence principle is satisfied. The important question then becomes whether AIDS warrants paternalistic protection of those not exposed through banning or highly regulating the means of possible transmission.

Paternalistic interference, on one justification, is warranted when a person is operating at risks which he is unable to assess due to diminished mental skills or lack of information. The solution tailored to such incapacities, though, is chiefly education. This line of argumentation at most justifies labeling dangerous products, in the way such labels are placed on cigarettes.

But far from justifying major paternalistic coercion of gay institutions, say, closing gay baths, this argument suggests that paternalistic arguments surrounding AIDS are not even being advanced in good faith. Five years into the AIDS crisis the federal government has

finally put out bids for *studies* of ways in which programs of AIDS education might be effected. And in Los Angeles and Philadelphia government sponsorship of private-sector distribution of safe-sex literature was withdrawn when the literature was branded as pornography: neo-feminists take note.

Another legitimate way of justifying paternalistic coercion is to argue that one should be protected from ceding away the very conditions that enable one to be an independent agent. One is not allowed to contract to become a slave. Do these grounds warrant state-imposed bars to putting oneself at risk for AIDS?

Sex, like health, is in general a central personal concern and addressing sex as central and appropriating it to oneself in some way or another is probably necessary to meaningful life.

Admittedly, minimally good health—indeed, life—is a necessary condition for being viewed seriously as an independent agent. So the AIDS case might seem relevantly similar to the contracting-to-slavery case. It differs, though, in two significant and separately decisive ways.

First, slavery *by definition* is a condition of lost independence. However, as with other venereal diseases, not every sexual encounter with a virus-exposed person exposes one to the virus and exposure is no guarantee of actually contracting AIDS since only some portion (estimates vary from 5 to 20 percent) of those exposed actually come down with the disease. Because the risk is high but not invariably catastrophic, putting oneself at risk for AIDS becomes less like contracting for slavery and more like being a race car driver or a mountain climber. In cases like these the considered standard of our society is that the assessment of risk ought to fall to the individual.

Second, in the slavery case we are unable to imagine what momentary gain could be reasonably balanced against the value to the individual of independence permanently lost. However, sex, like health, is in general a central personal concern and addressing sex as central and appropriating it to oneself in some way or another is probably necessary to meaningful life. Even the lives of priests and nuns who renounce it altogether would lead us to believe that one's sexual choices—including the choice of celibacy—are as central as any facet of one's life.

The centrality of sex to life means that it may have to be balanced with the value of continued independence—independence is not our only value or prior to all other values. Striking a balance surely is not a decision that the state could reasonably make across the boards for all. Individuals, not the state, must make the difficult choices where values centrally affecting the

self come in conflict. This principle is generally recognized when health and religious values come in conflict: the state ought not to force a lifesaving blood transfusion on a patient who believes it will eternally damn him.

Governments that have written off the value of gay sex altogether by making it illegal largely on religious or other grounds that do not appeal to the causing of harms to others should be viewed as especially suspect when they make paternalistic arguments on behalf of gays. For by this very course they have already shown that they do not respect gays as autonomous and independent beings.

What to Do: Preventive Funding

The centrality of sex to individual lives, though, points the way to a chief justification for state funding of preventive AIDS research. People ought not to be in the position where they have to make trade-offs between the central components of a complete life. Ending the conflict of central personal values will be especially attractive when the means to it place no nearly comparable burden on others. What is required in the case at hand is tax dollars for both basic immunological research and applied viral research. Yet, given the ends likely to be achieved and assuming an equitable tax system, taxation places no comparable burden on those taxed.

A second argument for preventive AIDS funding is that no one should have to live in a condition of terror. Imagine a prisoner who is not actually ever tortured but who daily witnesses the torture of others in adjacent cells. Not only the torture victims themselves but he too has experienced cruel and unusual punishment. Constantly expected but uncertain destruction seizes up the mind and turns it against itself, destroying the equanimity necessary for thinking, deciding, and acting.

Gays now live in . . . a condition of generalized terror. As the number of AIDS cases has risen exponentially, leaving nearly everyone with lost acquaintances, gays are experiencing—at a minimum—the equivalent of the V-2 bombings of London.

Gays now live in such a condition of generalized terror. As the number of AIDS cases has risen exponentially, leaving nearly everyone with lost acquaintances, gays are experiencing—at a minimum—the equivalent of the V-2 bombings of London. Quite independent of any view one may have on moral guilt or innocence in the spread or acquisition of AIDS (the prisoner in our example was, let's say, a murderer), no one deserves the terror that has filled the everyday reality of gays. Indeed, everyone exposed to terror has a positive claim that it be ended.

What to Do: Tending the Innocent

Though AIDS is contracted in a condition where one has put oneself at risk, the disease ought not to be viewed in general as a case of paying the piper, as one might claim suffering from a mountain climbing accident ought to be, where the effects of negligence to oneself are to be borne by oneself.

Consider, first, that the incubation period for the disease can be five years or longer. The disease first came to light anywhere in the United States only in mid-1981 when it was shrouded in mystery, its nature unknown. This means that even people who totally swore off sex on first hearing mention of the disease would still now be coming down with it.

Second, as mentioned, educational material that would make people aware of their risks has only recently begun to be discussed by governments. And the mass media have been more than a little chary to provide details of safe-sex practices. So many people have been taking risks in situations of constrained information. Even in conditions of complete information, furthermore, it turns out that most individuals are not very good at making judgments of risk management. That this is so makes a big difference in assigning fault to individuals.

*Though AIDS is contracted in a condition
where one has put oneself at risk,
the disease ought not to be viewed in general
as a case of paying the piper. . . .*

Nor is sex drive something over which one has an unrestrained control. One thing that seems likely to be confirmed by the AIDS crisis is that sexual orientation is not a matter of choice, or else every gay man cognizant of the health crisis would have attempted to switch orientations long ago. If orientation is fairly fixed, the only question becomes how much sex is okay. The Centers for Disease Control now recommend that gay men simply be celibate—unless they have lived in long-term completely monogamous relationships. This advice seems little rooted in an understanding of the cussedness of sexual and cultural reality. On the one hand, the recurring and intrusive nature of sexual desire guarantees that in general gay men, as others, will not be celibate. On the other, long-term gay relations have been a rarity, and necessity is a particularly poor forge for working the most delicate of human bonds. Those who espouse safe-sex guidelines also seem to bump up against reality. Safe-sex is poor sex—as likely to frustrate as satisfy.

As important, sex is virtually the only mode in which gays in our culture are allowed to identify themselves to themselves. And yet the gay person's sexual orientation is the chief facet of his existence, just as for blacks being black, due to cultural realities, is the chief facet

From *Hot Acts*, edited by Winston Leyland



Sunshine Press, © 1984

"When we get to the ark, don't tell them I'm gay."

of their existence. As the result something more than just pleasure and the fulfillment of need is wrapped up in sex for gays. Identity itself is at issue.

In light of these facts, it looks as though the chortling "we told you so" of some conservatives is, at the least, unjustified.

What to Do: Hospice Care

AIDS has no cure. Tendance for AIDS patients chiefly requires routine nursing and hospice care. Historically routine nursing and hospice functions have been performed by family members. Even now the standard nursing home carries out this tradition in its own unsatisfactory way: it falls to the patient's family to arrange for the "home," pay the bills, and provide whatever emotional support the patient is to receive. I wish to suggest that hospice and nursing care is due to gay patients from the state as a matter of compensatory justice for society's and government's destruction of the possibility of the creation of gay families.

Fifty percent of non-gay marriages fail even when they are given the highest imprimatur which society has to offer and luxuriate in substantial attendant material benefits. It is surprising, indeed amazing, therefore, that any gay relationships survive. If society will not let you be gay by ones, it certainly will not let you be gay by twos.

Hatred of gays as internalized by gays—a condition magnified and darkened by the AIDS crisis—is probably the leading cause of the failure of gay relations to materialize and mature. If matrimonial love entails unqualified acceptance of the beloved, the taint of self-hatred will vitiate gay love. Further, where discrimination against gays is widespread, it is unlikely that gay couples will flourish. For acting as a couple tends to cast one's affectional preferences into the public realm and so makes one a target of discrimination.

It perhaps goes without saying that attempts of gays to create blood and extended families of their own have been blocked at every turn by society and now increasingly by the state. Many states have recently been

codifying into statute and regulation what has been the reality in practice all along—the exclusion of child custody, adoption, and fostering by gay couples. These policies systematically block the creation of gay familial units and indirectly contribute to the decay of gay relations by appealing so directly to an alleged wickedness of gays, as corruptors, and an alleged worthlessness of gays, as role models.

Compassion would suggest and compensatory justice should require that the day-to-day care of the

final-stage AIDS patient be provided in lieu of the care he would have likely had but for society's blocking his creation of his own family.

—Richard D. Mohr

Richard Mohr is a Rockefeller Foundation Resident Fellow at the Center for Philosophy and Public Policy, on leave from the University of Illinois at Urbana, where he is Associate Professor of Philosophy. This article is condensed and adapted from his paper "Of Deathbeds and Quarantines: AIDS Funding, Gay Life, and State Coercion."

Income and Development

The term "development" and terms such as "less developed," "undeveloped," and "underdeveloped" are universally used in talking and thinking about change in the Third World. There are journals of development economics, textbooks on the process of development, organizations devoted to development. It is therefore striking that for all that has been written about development and how to achieve it, relatively little attention has been given to the basic question: What is development?

The notion of development suggests something of a natural process that an entity goes through. Thus we might speak of the development of an acorn, or of a child, but not the development of a stone or of a bookshelf. Moreover, the process envisaged is not a matter merely of change, but involves the working out of the *potential* of the entity. When an acorn develops into an oak tree, the change that takes place is coming from within; outside elements serve only as an environment within which the oak can develop into itself and in so doing fulfill its potential. The notion of development, then, carries within it the complementary notions of actualization, growth, maturity, fullness of being.

Given these particular features of the concept of development, it is striking that we speak of nations, economies, and societies as developed and undeveloped. Just what we mean by "potential," "maturity," or "fullness of being" when discussing economies and societies is elusive. Thus, economists, planners, and decision-makers typically turn to some notion that can be more easily articulated and more readily used as a guide to policy choices. The notion of economic growth is appealing in this way. An economy has grown if and only if the pile of goods and services produced by that economy (the total or per capita output) in a given time period is larger than the pile it produced in the previous time period.

But we cannot equate development with growth. Simply growing larger carries with it no notion of maturity. In principle, a mature elephant could get larger

and larger, yet we would not say that the giant elephant was more advanced or had more fully realized its potential than had normal-sized elephants. Similarly, economic growth does not necessarily imply that the society is becoming more developed, or even that the economy is becoming more developed.

Economic *development*—as an ideal Third World countries are supposed to be striving toward—must depend on something broader. An economy is more developed, not if it produces an ever-larger pile of goods and services, but if it more fully contributes to the development of the society as a whole. And a society is developed insofar as it makes possible the development of the human beings within it. It is the notion of human development that is our central concept.

Income versus Basic Needs

How is one to link an appraisal of societies to judgments about the kind of human beings they give rise to? Almost all modern thought about development is egalitarian in the sense that there is concern with the *breadth* of human development rather than the *depth*. It does not measure development by the heights of human greatness achieved in a given society, but by the general level of human well-being. But within a general egalitarian framework, the distinction is made between three broad approaches to economic development that go under the rubrics: "trickle down," "equitable growth," and "basic needs." These three views adopt different understandings of what counts as development progress, of what it is for an economy or a society to *be* developed. They also differ with respect to *how* to achieve development—but that is not our immediate issue.

For both the equitable-growth and trickle-down conceptions the central good to be attained is higher income. Moreover, while it is clear that equitable-development advocates care about the distribution of income, the trickle-down conception is also concerned