

The AIDS Epidemic as Civil Rights Problem

By

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Almost from the very beginnings of the *AIDS* epidemic—back when it was known as *GRID*, or “*Gay-Related Immune Deficiency*”—there have been contradictory claims made concerning the civil rights implications, or lack of civil rights implications, of this disease. Homosexuals have constituted the vast majority (a relatively constant two-thirds) of those transmitting and suffering from this disease, the *Human Immunodeficiency Virus* or *HIV*. Thus, homosexuals and persons responsive to their fears have been very sensitive to the possibility that the *HIV* epidemic might be used as a pretext for persecution, as an incitement to “homophobia” or (better) “homomisia”. The other major “high risk” group (intravenous drug users) has been less effective in mobilizing a lobby in defense of its special interests.

Other folk have tended to look upon *AIDS* as confirmatory evidence that homosexual practices violate natural precepts of human decency or, at least, natural precepts of human hygiene. The two “high-risk” groups, homosexuals and intravenous drug users, contribute nine out of every ten victims of the *Human Immunodeficiency Virus*, and they do so by virtue of engaging in behavior—anal intercourse or the injection of narcotics—which the general public perceives to be, first, elective, and second, at the very least, distasteful. Their main concern seems to be, however, that the elective behavior of a few has put the safety of many at risk.

We have learned from the imminent decimation of the otherwise blameless hemophilic population that the epidemic does constitute some threat to the population at large. Even so, however, the extent of the threat is still completely obscure. In general, public health officials are perceived to have reacted to this threat with anxious attempts to calm a public falsely assumed to be hysterical. Thus, in seeming to “protest too much,” public health officials have inspired the suspicion that “they are more interested in protecting *AIDS* victims from the public than in protecting the public from *AIDS*.”

In examining the entire question of the “civil rights implications of the *AIDS* epidemic,” the United States Commission on Civil Rights attempts to relieve the nation’s public health officers of a burden improperly assumed by them, a burden which they are unequipped to bear and the bearing of which in fact erodes public confidence in the conduct of their proper responsibility. Pursuant to its statutory responsibilities, the Commission seeks to monitor the protection of the civil rights of those infected with the *Human Immunodeficiency Virus*. Knowing that individual citizens have earnest advocates, public health officials might again act as advocates of the public safety, if, for example, the closure of a known source of infection or the restraint of a particularly incorrigible carrier of the disease seems necessary.

The Commission’s work is not yet done. No one can attribute any view to the Commission as a body or to the Commissioners as individuals. We have not spoken. Nor am I so certain, at this date, what our conclusion will look like. The Commission has not yet received a single

syllable of evaluation or recommendation from any of its staff. This is perhaps readily understandable, given the enormous difficulty of the question itself. The civil rights implications of the AIDS epidemic have been befogged by contradictory claims on both sides of the argument.

Each side seems to claim that the *HIV* epidemic both is and is not a civil rights issue. On the one hand, the homosexual lobby indicts a resurgence of discrimination against homosexuals and a consequent need for the vigilant protection of their civil rights. On the other hand, it was a homosexual activist group, which most vigorously protested the fact that the Commission on Civil Rights was beginning its investigation of the implications of the *AIDS* epidemic with the issue of the virus' transmissibility. Their assumption seems to have been that, to the extent to which it became clear that AIDS is still predominantly a "minority" disease, there will be an erosion of "majority" support for the funding of research into its cure. It is unclear, however, that the funding of medical research has ever been or ought to be addressed as a question of "minority rights".

On the other hand, defenders of a public safety orientation consider it as a matter of rights that innocent citizens not be exposed unnecessarily to the virus. Thus, even as they condemn the conduct, which they understand to be necessary to spread of the disease, they express fear that they will somehow be exposed to it even while abstaining from such conduct. Perhaps the fate of hemophiliacs is not calculated to inspire their confidence, although we seem credibly reassured today that those early errors have been corrected once and for all. Doubtless, they will find last week's headline even more alarming: "Data on Youth's Promiscuity Stir Concern on AIDS."ⁱ There, once again as so often before, the same voice of science, which reassures that heterosexuals are not at risk, cautions, "You may not be engaging in homosexual behavior, but you also need to know if your partners have," and so on *ad infinitum*.

Perhaps the most vexing dimension of the entire AIDS controversy has been its capacity to spawn instant experts. At the Commission on Civil Rights, at least, no greater claim shall be raised than the claim to advocate the rights of individuals. We will not purport to speak for the scientific community.

ⁱ *New York Times*, September 25, 1988, National Edition, p. 19. Quoting Dr. William Darrow, from the Center for Disease Control.