The Problems of Prevention: Public Health Versus Discrimination

As a generalization, the response of gay groups and those working in local AIDS education and advocacy programs has been to stress large-scale education about primary prevention, while conservative medical, political, and religious figures have emphasized widespread testing for the HIV antibody and restrictive legislation. The issue of testing for HIV antibodies among high-risk populations (i.e., is it a useful tool in AIDS prevention?) has been a major debate in most Western countries. AIDS organizations have generally argued that large-scale testing is undesirable and that mandatory testing of high-risk groups will, in the words of Surgeon General C. Everett Koop, compel "those infected with the AIDS virus [to] go underground out of the mainstream of health care and education." As the National Gay and Lesbian Task Force (NGLTF) argued:

The experience of the gay community—the only group where significant prevention and risk-reduction programs have taken place—demonstrates that education and counseling, *not* testing, are critical to changing behavior. Not everyone needs or desires to know his/her antibody status. No one should be forced into that position, particularly given the potentially severe social, legal and economic ramifications of testing.

The NGLTF's antitesting position is further strengthened by the fact that test results often obtain false positives for the presence of HIV antibodies. It is easy to portray this dispute over testing as one that pits public health advocates against proponents of gay rights. In reality, the dispute centers on different conceptions of public health: Those who oppose mandatory testing are concerned that the fear of discrimination resulting from seropositive results will force those most at risk to avoid needed testing, counseling, and contact with support services. This argument has been used against Reagan administration proposals on testing, and against state legislation that requires the reporting of names of those who test positive.[[14](http://publishing.cdlib.org/ucpressebooks/view?docId=ft7t1nb59n&chunk.id=d0e5588&toc.id=d0e5346&toc.depth=1&brand=ucpress&anchor.id=d0e5444#X)] It is vital to understand the extent to which discrimination (real and perceived) against "AIDS carriers" is a factor, and how it is strengthened every time a politician or religious figure talks of quarantine or isolation.

Even enlightened governments have aroused fears of discrimination against homosexuals in the name of AIDS prevention. In Sweden major disagreements have emerged over the provisions for confidentiality in HIV-antibody testing, with the national gay organization expressing apprehensions about the consequences. At this writing a similar dispute has erupted in Australia between Victoria's AIDS Council and the (Labour) state government, which, in marked contrast to the Reagan administration, has enabled and even encouraged gay participation in resolving the dispute.

Of course, certain sorts of discrimination are justified in the interests of public health, and reasonable people can disagree about the balance—as was true in the protracted debate in San Francisco concerning the gay bathhouses. But few diseases in recent history have led to as many stringent proposals to restrict the rights of those affected, and even fewer have led to claims for discrimination against *all* members of "high-risk" groups, whether or not they were actually ill or contagious. Fear of AIDS has elicited a welter of irrational reactions based on the stereotyping of homosexuals. The U.S. Justice Department has ruled that persons with AIDS may be dismissed from their jobs because of fear of transmission, even where such fears are not medically supported; some state courts and legislatures, however, have taken an opposite position. Fear of AIDS was invoked by the state of Georgia in its successful defense of its antisodomy law before the Supreme Court in 1986. A number of governments (including the United States) have sought to make evidence of HIV-antibody-free (noncarrier) status a requirement for immigration or even entry; in West Germany this provision has led to a bitter dispute between the Interior and Health ministries.

AIDS and Gay Rights: Progress or Reversal?

Fear of and hostility toward those with AIDS most clearly overlap with more generalized homophobia in the attempts by some politicians and a number of fundamentalists to use the epidemic to argue against homosexual rights. In the eyes of the religious right, AIDS is literally viewed as a God-given opportunity to reverse social attitudes toward homosexuality, which have grown more tolerant over the past decade; in English-speaking countries particularly, fundamentalists have invoked fire-and-brimstone rhetoric to argue that AIDS is evidence of God's wrath. It seems likely that some of President Reagan's reluctance to commit his administration to the battle against the epidemic has had much to do with his unwillingness to antagonize the fundamentalists in the Republican constituency; latest victim of right-wing attacks is Surgeon General C. Everett Koop, who has been bitterly assailed for his espousal of widespread AIDS-prevention education.

The greatest danger of discrimination can occur where the religious and political right combine to organize antihomosexual campaigns invoking the fear of AIDS. For example, in California's November 1986 elections a group associated with Lyndon LaRouche proposed a measure to quarantine those who test antibody positive; it was defeated after gay and medical groups mounted a major campaign against it—supported by almost all mainstream politicians. Even though there is no good medical argument for a large-scale quarantine—let alone the extraordinary practical difficulties it would involve—this will undoubtedly not be the last time quarantine measures are proposed. (Introducing a bill for notification of all HIV-positives, one New Zealand member of parliament (M.P.) said: "As far as I'm concerned, they should be monitored and bloody well isolated."

These extreme examples, however, need to be balanced against the ways in which the increased visibility of gays owing to AIDS has also increased recognition that they constitute a legitimate community; one study in California suggests increased support for gay civil rights over the past decade, despite fear of AIDS. Nevertheless, the political balance still seems unclear. New York City finally adopted an antidiscrimination ordinance in 1986 protecting homosexuals, despite concern about AIDS, and decriminalization was achieved by a free parliamentary vote in New Zealand in 1986; on the other hand, Western Australia rejected decriminalization largely because of AIDS-related hysteria. Several U.S. cities, including Los Angeles and San Francisco, have adopted specific ordinances against AIDS-related discrimination. That these are necessary is suggested by the rise in AIDS-related cases before various state and city human rights commissions over the past year.

Gay groups have quickly learned which aspects of the political system are most amenable to pressure; in the United States, at a national level, this has involved working through the courts (a vast number of AIDS-related cases are already working their way through the judicial system) and, especially, sympathetic members of Congress. The first hearings on AIDS were those organized by Rep. Henry A. Waxman (D.-Calif.) in 1983 and Rep. Ted Weiss (D.-N.Y.) in 1984; not surprisingly both men have large and well-organized gay constituencies. They were subsequently supported by other congressional members, almost all of whom also have strong gay organizations in their districts. Openly gay politicians, in addition, have run successful, or nearly so, campaigns for national office: San Francisco City Council member Harry Britt was almost elected to Congress in 1987. Congressman Gerry E. Studds "came out" as a result of the scandal following his initial election, and has since been reelected; he has more recently been joined by Congressman Barney Frank, also from Massachusetts; there are, or have been, openly gay state legislators in Minnesota and Massachusetts.

In the executive branch of government—except for some local jurisdictions, especially in California—gay participation in policy-making has been informal and, to that extent, dependent on personal networks. In other political systems, where legislatures are far more dependent on executives, the possibilities for political intervention (available in the United States through congressional initiatives) are far less viable. Thus, in Australia, direct lobbying of the federal Health Department has been much more important than contact with parliamentarians; as early as 1984 the government allowed gay participation in policy-making when it established a ministerial advisory committee on AIDS and included representatives of gay-community groups; it followed this action with government support (and funding) for a national association of AIDS organizations designed to allow direct contact between the federal government and the AIDS-prevention movement. There is, in Australia, a parliamentary committee on AIDS, but its role vis-à-vis making policy is minor compared to the roles played by the National Advisory Committee or the more medically oriented Federal AIDS Task Force.

Two points need be made: First, the recognition of homosexual rights is fragile, and can easily change. (It is unlikely, for instance, that it would survive a change of federal government in the Australian case.) Second, recognition and incorporation into the system itself have presented new problems for the gay movement.

New Perceptions of Homosexuality

It is difficult to speak of the impact of AIDS without speaking of the changing perceptions of homosexuals, so intertwined are the two in the public imagination. AIDS seems to have heightened both the stigma and the respectability of homosexuals; in unraveling this apparent contradiction, we can come to terms with certain crucial social changes. The common assumption is that AIDS has been responsible for reversing, or at least halting, a gradual social acceptance of homosexuality as an "alternate life-style," an acceptance that had grown out of changes in sexual mores and the commercialization of sexuality during the 1970s. It is not hard to point to the hostile rhetoric, increased antigay violence, and the quite considerable discrimination directly linked to AIDS. Evidence of increased violence directed against homosexuals, much of it linked to AIDS, was recognized by a special congressional hearing in late 1986.

The reality may well be that the response to AIDS thus far has largely been a reflection of the extent to which preceding gay-rights struggles had achieved a place in the political process for gay organizations; AIDS has thus highlighted a process already under way. The point has often been made that the epidemiology of AIDS would have been very different in most Western countries had it not been for the expansion of gay sexual networks in the 1970s. Equally, the response of governments would have been very different—and almost certainly slower and more repressive—if this expansion had not also been accompanied by the growth of gay political organizations that provided a basis for the development of community-based groups in response to the epidemic. Thus, the paradox I set out at the beginning of this chapter is no such thing; shorn of its emotional and voyeuristic content, the politics of AIDS follows closely the assumptions of interest-group politics in most Western societies. At the level of conventional liberal political analysis, the case of AIDS bears out the adage that the squeaky wheel gets the oil.

AIDS has brought issues of central concern to the gay movement onto the mainstream political agenda: at an enormous price the gay movement has become a recognized actor in the politics of health policymaking. Thus, while I agree with Allan M. Brandt that "the AIDS epidemic threatens to undo a generation of progress toward gay rights," such a development is not inevitable. Political will and mobilization can have a large effect on the social impact of the disease.