

## AIDS and Legal Paternalism

The great majority of the known cases of Acquired Immune Deficiency Syndrome (AIDS) in the United States are believed to have been contracted through homosexual activities.<sup>1</sup> As a result there have been calls for, and in some instances passage of, laws whose purpose is to decrease the number of homosexual contacts and thus at least to slow the spread of this lethal ailment. These actual or suggested laws include those that would close bars and baths where meetings and sexual activities are likely to take place, and those that would provide for the quarantine of carriers of the AIDS virus.<sup>2</sup>

It is frequently maintained, however, that laws such as these provide for unwarranted paternalistic intrusion on the chosen actions of consenting adults. For instance, faced with the threat of being closed down by local government, proprietors of baths and bars have maintained that the men who choose to frequent their establishments and to engage in sexual activities there are well aware of the dangers in doing so. If these people are willing to risk their own health and even lives by frequenting the bars and baths, that is "their own business." It is not the business of the law to interfere with those free choices.

Philosopher Jonathan Lieberman argues in the same vein:

The New York Post has called the civil rights of bathhouse patrons "irrelevant banter." But AIDS in bathhouses is contracted through consensual acts .... While the state government has in principle the right to intervene in private sex activity in order to protect people from an epidemic of highly contagious disease, it ... has not been shown that AIDS is very contagious ....<sup>3</sup>

And widely syndicated columnist Charles Krauthammer says this about the notion that AIDS carriers should be quarantined:

The fact is plain: AIDS is hard to transmit. It stubbornly sticks to certain high-risk groups engaged in sexual promiscuity and intravenous drug abuse .... [B]oth are voluntary .... Quarantine is justified when it is the only way to protect citizens from involuntary infection. If Jones can give you his tuberculosis by sneezing on you in a subway car, then society must protect you by locking him up. But if Jones needs your full cooperation in a rather complicated act to give you his AIDS, what possible reason can society have for locking up Jones in the name of protecting you?<sup>4</sup>

The principle that lies behind these positions would seem to be Mill's: "There is no room for [even considering a prohibition] when a person's conduct affects the interests of no persons besides himself, *or needs not affect them unless they like* .... In all such cases, there should be perfect freedom, legal and social, to do the action and stand the consequences."<sup>5</sup> Mill's principle clearly entails that it is illegitimate to close baths and bars and to quarantine AIDS carriers to protect their potential patrons and lovers from contracting AIDS, since the patrons and lovers consent to take the risks of getting the disease. The opposing doctrine--the one that would have it that it is a proper function of the law to protect the individual from making unwise choices that may bring him harm--has come to be called "legal paternalism." In these terms, Mill's position is that of principled anti-paternalism, and arguments such as those given by Lieberman and Krauthammer against the legitimacy of closing the baths or quarantining carriers appear to rest on anti-paternalistic presuppositions.<sup>6</sup>

It has often been claimed that the sort of anti-paternalism defended by Mill is much too radical to be plausible, since, for instance, it would (so say Mill and others) make it illegitimate to interfere even with the sale of dangerous drugs.<sup>7</sup> Nonetheless, Mill's position has considerable plausibility. If the only reason that can be given for preventing me from riding a motorcycle without wearing a helmet or from playing the commodities

market or from handling poisonous snakes is that the action may bring me harm, then it is hardly far-fetched to think that you do not have adequate reason for interfering with my informed deliberate decision to perform that action. This indicates that paternalistic justifications for interference with individual liberty are, at best, inherently weak, and so non-paternalistic justifications are almost always to be preferred.

The question that I now want to consider is whether the threat posed by AIDS actually does somehow provide the basis for a coherent non-paternalistic rationale for actions such as closing baths and bars and quarantining carriers of the virus. Here are some possible rationales.

(1) The homosexual acts that spread AIDS are immoral in themselves. The aim of laws which would close meeting places or quarantine homosexual carriers is to prevent people from behaving immorally or to punish them for having done so.

This sort of rationale is not paternalistic in our sense, for the purpose here is not the prevention of harm to self but rather the enforcement of morality as such.<sup>8</sup> Many quite understandably find this function of law considerably less palatable than paternalism.<sup>9</sup> While it would justify the closings and quarantines, it also could justify a general repressive anti-gay campaign that would appeal to only the most diligent of moralists. More basic to present purposes, even though AIDS and homosexuality are understandably closely connected in the public mind (it would be naive to think that the recent AIDS panic would have been so severe were it not for fear and loathing of homosexuality), AIDS is one thing and homosexuality is another. Our question is whether the threat of AIDS, not homosexuality itself, can be the basis of a non-paternalistic justification for the closings and quarantines. And so this proposed justification is not really to the point.

(2) Many AIDS victims will require protracted hospital or hospice care for which they cannot pay from their own resources.

This means that they will be dependent on public funds for support. The aim of closing the baths and quarantining carriers is to protect society from the monetary burden of providing such support.

Reasoning of this sort is common enough in legal cases (for example, as justification for requiring motorcyclists to wear helmets), but it is not at all clear that it can actually provide a non-paternalistic rationale for actions that might slow the spread of AIDS (or, for that matter, for requiring the helmets). If someone is seriously in need of health care which he cannot afford, it may well be that society should see to it that the care is provided. But the fact that society should do this does not mean that it does not have a genuine choice as to whether to do it. (Even if I really should give the change in my pocket to the blind street musician, I still have the choice of whether or not to do so. It would, in general, be ethically peculiar to hold that having an obligation to do A interferes with my freedom of choice whether to do A.) If society provides care for AIDS patients and incurs the attendant expenses of doing so, that is something that society consents to do. Thus, a person becoming sick with AIDS (or falling off a motorcycle while not wearing a helmet) and then needing medical care beyond his ability to pay does not force a harmful financial burden on any unwilling party.

It may yet be possible to develop a non-paternalistic, "burden on society" rationale for closing baths and quarantining carriers.<sup>10</sup> In particular, even given that having an obligation to help someone leaves a person free to help or not to help, it still seems that there should be something more to be said for the view that if I have an obligation to take care of you when you get into trouble (fall off a motorcycle, contract AIDS), then I have some right to prevent you from getting into that trouble (to make you wear a helmet, to prevent you from visiting bathhouses). One form of that "something more" will be suggested below. For now let us just note that any financial "burden on society" rationale would not get to the heart of the matter. For the intuition that there are non-paternalistic grounds for closing the baths and quaran-

tinuing carriers surely turns on the harm of suffering and dying of AIDS, whereas the relevant harm in the "burden on society" rationale is the quite different harm of monetary loss to those who do not have the disease. Thus, the most that might be said for the "burden on society" rationale is that it would make it possible to get the "right" result albeit for the "wrong" reason. There would be, perhaps, a certain value in this (better to send the gangland dope importer and murderer to jail for non-payment of income taxes than not to send him at all), but it remains unsatisfying.<sup>11</sup> What we really want to know is whether there is anything behind the intuitive conviction that there are legitimate grounds for closings and quarantines *and* that those grounds are those given in (3).

(3) The point of closing the baths or quarantining AIDS carriers is not to protect society from the financial burden of caring for AIDS sufferers. Nor is it to protect those individuals who would deliberately take the risk of visiting a bath or of having sex with an acknowledged carrier. The point is to protect society at large from involuntarily being subjected to the threat of AIDS.

Despite the intuitive appeal that this has, we have to wonder just how society at large is threatened by AIDS.

(a) The greater the number of people there are who have a highly contagious disease the greater is the threat to those who might become its unwilling victims. Everyone knows, for instance, that the more people there are around me with a cold the more likely I am to catch it by being sneezed on. Thus there is clearly a non-paternalistic rationale for laws that would prevent Smith from consenting to engage in an act that could well result in his contracting a highly contagious disease from Jones. The rationale is not paternalistic since the aim is not to protect Smith's welfare but rather to protect society at large from Smith becoming a carrier of a disease that will make him a danger to others.

As cogent as this reasoning is, it is predicated on the disease in question being highly contagious, and AIDS is certainly not that.

It is not transmitted by shaking hands, sharing a drinking glass, or even by being sneezed on. AIDS is virtually always passed from one person to another by actions that require the active participation of the potential victim (in the case of homosexual transmission, by participation in what Krauthammer interestingly refers to as "a rather complicated act"). This means that just as the man who would visit the baths chooses to take the risks involved in doing so, anyone "further down the line" who contracts AIDS (such as someone who decides to enter into a homosexual relationship with the person who frequents the baths) also has consented to engage in the risky conduct that has this unfortunate result. Thus at each stage those who are harmed are harmed as a result of choosing actively to cooperate in the acts that result in this happening. And since no one is harmed without consenting to take the risks, any interference in the process, for instance by closing the baths, must be intended to protect individuals from their own deliberate choices. There is just nothing in the process analogous to being sneezed on by a cold carrier. And so any justification that there may be here for closing the baths or for quarantining an AIDS carrier still appears to be a paternalistic one.<sup>12</sup>

(b) It would be far too soon to give up on (3). For while it is both correct and important to realize that AIDS is not spread by casual everyday contact, it is still a mistake to think that only those who consent to take a risk are in fact put at risk by the presence of the AIDS virus in some other individuals. Consider, for instance, a woman, "Alice," who does not know that her lover is bisexual and that he visits the baths a dozen or more times each year. In choosing to engage in sexual activities with him she is not deliberately choosing to take the risk of contracting AIDS, for she is unaware that this is a real possibility. In this respect she is in a very different position from the man who must know the AIDS risk of engaging in multiple sex acts in a gay bath. Perhaps the rationale for closing the baths is to protect members of "the public at large" like Alice from the unknown threat of contracting AIDS.

There are certainly non-paternalistic grounds for doing something on Alice's behalf. Even Mill's reputedly extreme anti-paternalism explicitly allows for intervention when the agent is not aware of the risks involved in a choice. "If either a public officer or anyone else saw a person attempting to cross a bridge which had been ascertained to be unsafe, and there were no time to warn him of his danger, they might seize him and turn him back, without any real infringement of his liberty; for liberty consists in doing what one desires, and he does not desire to fall into the river."<sup>13</sup> Since the point of opposition to paternalism is that one should not be prevented from bringing harm or the risk of harm to oneself if one freely chooses to do so; since one is not freely choosing to bring on or to risk a harm one does not know about; and, finally, since the interference with the action continues only until the agent is made aware of the risks involved, there is clearly nothing in Mill's position that any anti-paternalist should object to.<sup>14</sup>

Nor, however, is there anything in Mill's position that would justify closing the baths or quarantining AIDS carriers. At most it would be justified to restrict certain activities until requisite information could be disseminated. For instance, the baths could be closed until signs could be printed and posted regarding the danger of AIDS and the precautions necessary for "safe sex." (Such signs have in fact been posted in many establishments.) If Alice's friends knew specifically of her new lover's sexual habits, they could be sure that she had this information, and they might even do what they could to interrupt the relationship until they could bring this about. The role of society in regard to Alice would be that it should come to her aid by promulgating information about whatever dangers there might be in certain sorts of sexual activities.<sup>15</sup>

One may well think that if this is all that an anti-paternalist could allow to be done on Alice's behalf then there is something quite wrong with anti-paternalism. For we should all feel a considerable sympathy for anyone in Alice's position, and yet the information that society would normally be able to supply is not

in fact going to be a great deal of help to Alice. Essentially what she is going to learn is that there is such a disease as AIDS but that only a small percentage of men who have regular relationships with women carry the AIDS virus and that the virus appears to be difficult to transmit through conventional heterosexual activities.<sup>16</sup> Unfortunately, such information would lead Alice to underestimate the actual danger of contracting AIDS from this particular lover who, unknown to her, is a bisexual and a frequenter of the baths. Of course society could see to it that Alice received much more complete information. Detailed records about just who visits the baths and who their friends are could be compiled and published on a regular basis. Laws could be enacted requiring that everyone provide any potential partner with the particulars of one's sexual history. But while these are things that could be done, it is unlikely that any of us would want to live in that sort of Draconian society.

So the case of Alice seems to lead the opponent of paternalism to some unhappy alternatives. In the name of anti-paternalism the baths will not be closed, and either Alice will face a much greater possibility of contracting a lethal disease than she realizes or society must intrude upon the private lives of its citizens in order to get the information needed to enlighten Alice about the real risks in her specific case.

The anti-paternalist may simply deny that the first of these alternatives is intolerable. We all have to make many decisions with less than ideal information. The fact that Alice must do so does not not justify infringing on liberty by closing baths and bars or quarantining carriers. (Of the many "Alice's" facing the decision of whether to have sex with a friend, the vast majority in fact will not be in danger of contracting AIDS.) But perhaps the anti-paternalist need not take this possibly "heroic" position, for there is still another way in which we might be able to make a non-paternalistic case for closings or quarantines.

(c) To contract AIDS is to suffer harm. If this is the only harm that persons might suffer as the result of the presence of the AIDS virus in the community, then it is difficult to imagine that any



non-paternalistic justification for closing the baths or for quarantining carriers of the virus might be successful, given that the disease is contracted by consensual acts. But actually contracting AIDS is not the only way in which one can be harmed by the presence of the virus in the community. A "desert island" scenario should help to explain why this is so.

Suppose there exists a certain Harvey, benevolent dictator of a small and entirely isolated society made up of a few thousand highly sensual persons. Some of these prefer their own sex, some the other, but they are all capable of intense enjoyment with anyone else. On the whole their sex lives are extremely satisfying, and they regard this as necessary not only for happiness but for their most basic psychological well-being. One day (as you might have guessed) trouble intrudes into this world in the form of a new and lethal disease. Christening it "The Lethal Ailment," the official doctor quickly determines that just a small handful of inhabitants actually have the disease, that it is transmitted only by sexual activity, and that it is rather hard to transmit at all but it is far more readily transmitted through certain activities preferred by a minority of the population.

Harvey is not only benevolent; he is also wise enough to rely on a staff of skilled advisors when expertise is needed. This time he turns to Jeremy, his resident source of wisdom on matters legal and philosophical. As it happens, Jeremy is a devoted follower of Mill, and so he advises Harvey in this way: "Everybody on the island knows the disease is here and how one can get it. You could lock up the people who have it or close down the places where they are likely to do the things that transmit it, but the only reason for your doing things like this would be to protect the folks from their own choices. If old Smith there chooses to take the risk of contracting this disease it is his own business. You stay out of it."

Harvey follows Jeremy's advice and stays out of it. Shortly thereafter he takes the opportunity for a balloon trip to the

outside world. Returning twenty years later he finds a society considerably reduced in number and happiness. Many people have died of the disease, and a very large number of those who are still alive suffer from it. Jeremy, as sick as he is, is sanguine. "It is true that the results have not been too good, but we avoided paternalism. Mill would have been proud of us. No one contracted the disease who did not deliberately choose to take the risk of contracting it. No one who did not consent to do so was ever threatened with the harm of the disease. What we have here is the triumph of a principle of liberty."

"What we have here is an idiot of an advisor."

"But all I did was follow Mill's precepts. I just told you. No one was harmed who did not consent to be harmed."

"What about me?"

"You?"

"I came back from the outside world to my homeland of loving sensuality only to find myself faced with nothing better than a choice between a killer disease and celibacy. No one is harmed who did not consent to be harmed, you say? What greater harm could there be than being faced with those two miserable alternatives? I am getting in my balloon and going back to the outside world."

But Harvey's balloon had burst. He couldn't go anywhere. There are no records of what happened after that on Harvey's Island.

The inhabitants of Harvey's unfortunate island are threatened with a harm: contracting The Lethal Ailment. But they also come to face a related but different harm, having a choice between alternatives each of which is so undesirable that to have to choose between them is itself to be harmed. When the point is reached that everybody else carries the disease or any other person is quite likely to be a carrier, each individual faces the alternatives of celibacy or the likelihood of contracting a disease from which he will not recover. Having to choose between these alternatives is a very real harm, and it is not one to which the individual in any way consents to be subjected. In short, *anyone who gets The*

*Lethal Ailment does so as a result of consenting to take the risk of getting it rather than choosing to be celibate. But no one consents to the harm of being faced with only these miserable alternatives.* Thus, insofar as the aim was to prevent this harm, Harvey did have, despite Jeremy's misguided advice, a non-paternalistic rationale for locking up carriers and closing places where people were likely to engage in the sexual activities by which the disease was most easily transmitted.

Both the "burden on society" and "Alice" discussions above were left with the suggestion that there might be more to be said. The Harvey story enables us to see what this would be. Obviously that story suggests a way of reconceptualizing the "Alice" situation so that it really might provide a non-paternalistic rationale for closing the baths. Given that Alice has all the information that could reasonably be made available to her, when she chooses to have sexual relations with her lover she is consenting in as enlightened a way as practically possible to take whatever AIDS risks there may be. She did not, however, consent to having to face just the alternatives of rejecting her lover or taking those risks, and the existence of the baths contributes to her having to face these alternatives. If having to face them does indeed constitute a harm, then in the Alice case we really do have a non-paternalistic rationale for the closings.

Perhaps the "burden on society" rationale can be reformulated in a similar though not so obvious way. Understood on the model of the story of Harvey, there may well be a legitimate basis for the intuitive conviction that if I have an obligation to take care of you when you get into trouble, then I have some right to prevent you from getting into that trouble. It is not that your getting into trouble and my resulting obligation forces on me the harm of taking care of you. Obligation or no, I am quite free, after all, just to leave you to fend for yourself. What your getting into trouble does force on me is this set of alternatives: either I neglect my obligation to take care of you or I shoulder the financial burden of your care. If being faced with just these alternatives is counted a harm, then the "burden on society" argument

would provide a genuinely non-paternalistic reason for closing the baths or quarantining carriers of the AIDS virus.<sup>17</sup>

What all of this tells us is that there *can be* non-paternalistic reasons for closing gay bathhouses and quarantining AIDS virus carriers even though everyone who might get the disease consents to take the risk of doing so. It does not, however, tell us that there really *are* such reasons. That latter point depends on whether the activities of the bath patrons and carriers will actually make it likely that persons (or society) will have to face alternatives so thoroughly unacceptable that having to face them is to be harmed.

Whether in fact this happens depends, first, on what the actual consequences of not closing the baths or quarantining the carriers are likely to be. For instance, is it likely that we would all come to find ourselves, like Harvey, facing a choice between celibacy and a near certainty of contracting a killing disease? Or, perhaps, is the virus so difficult to transmit by heterosexual activity that there is no genuine risk in heterosexual relationships? In this event AIDS would not force a choice between celibacy and the risk of death on anyone, but it would force the choice between celibacy, exclusive heterosexuality, and the risk of death on everyone, including homosexuals.

Here questions of a second, a more conceptual/evaluative, nature become crucial. What consequences would constitute a genuine *harm*? While it is clear (at least it seems to me that it would be incredible to deny) that a person is harmed by being faced with a choice between celibacy and contracting a lethal disease, would a homosexual be harmed by being restricted to choosing between celibacy, heterosexual activity, and contracting the disease? If one sees sexual orientation as a matter of (as current terminology often has it) sexual *preference*, being so restricted may not appear to be a harm. (If my *preference* is for blond pudgy sexual partners, am I *harmed* if I am somehow limited to a choice between celibacy and a generous selection of slender dark-haired partners?) On the other hand, most heterosexuals would think it a very great harm indeed to be

limited to a choice between celibacy, homosexuality, and contracting a fatal disease. Does not parity dictate that the homosexual is equally harmed by being restricted to a choice between celibacy, heterosexuality and the disease?

Further, it is clearly artificial to think that any activities would absolutely ensure contracting AIDS. Thus, the alternatives posed by the presence of the AIDS virus are not likely to be as simple as celibacy or contracting the disease (or celibacy, heterosexuality, or contracting the disease). They will instead be something more like celibacy or  $X$  amount of risk of contracting the disease (or celibacy, heterosexuality, or  $Y$  amount of risk of contracting the disease). And so, in considering whether or not having to face some particular set of alternatives constitutes a harm, we must consider not only what the "safe" choices are (celibacy, exclusive heterosexuality, and so on.) but also how great a risk there is in deviating from the safe choices. Harvey is clearly harmed because his choices are celibacy and the *practical certainty* of getting The Lethal Ailment. But if one's choices were between celibacy and a chance of getting AIDS approximately equal to the chance of being devoured by a runaway zoo lion, then only the most paranoid would think herself harmed by having to face those alternatives. Sorting out such conceptual/evaluative considerations is entirely necessary if we are to determine whether the presence of the AIDS virus does indeed threaten members of the community with a harm to which they do not consent.

Suppose that it finally does turn out (as it quite likely will) that not closing the baths and not quarantining carriers brings some degree of harm to unconsenting parties, that not doing these things contributes to people being limited to alternatives so undesirable that having to face them is a harm. In this event, Mill's anti-paternalistic principle that "there is no room for [even considering a prohibition] when a person's conduct affects the interests of no person besides himself, or needs not affect them unless they like..." simply does not come into play. Anti-paternalism does not dictate that it would be in principle illegitimate to close

the baths or to quarantine carriers of the AIDS virus. But the fact that the closings and quarantines are not in principle illegitimate does not mean that they are warranted overall. For whatever non-paternalistic reasons there may be for closing baths and quarantining carriers, there may be stronger reasons against such actions. For instance, it might be wise to leave the baths open because they serve as locations for educating gays on sexual safety. And quarantining all carriers of the AIDS virus--which, some say, could be as many as two million people--would most likely be completely unworkable even if it were somehow desirable.

There are difficult issues of substance here. My aim has not been to argue that they should be resolved in any particular way. It has been to show that even if AIDS is spread exclusively through consensual acts there can be non-paternalistic grounds for closing the baths or quarantining the carriers. Without question there is a great deal of plausibility in the claim that it is no one's business but Smith's if he freely chooses to frequent the baths or even to have a homosexual relationship with a known carrier. But in spite of the plausibility of this position, it is altogether too simple. The hard social issues posed by AIDS cannot be so easily disposed of by appeal to an anti-paternalistic principle.

### Notes

1. It is often said that approximately 73% of AIDS cases have been contracted through homosexual activities. This figure may be somewhat high, however, since the disease can be and often is spread through the sharing of drug needles, and AIDS victims who are both homosexual and drug users have been classified as homosexual rather than intravenous drug users. This is pointed out by Jonathan Lieberman in "The Reality of AIDS," *The New York Review of Books* (January 16, 1986), p. 44. Insofar as engaging in particular sexual activities and sharing drug needles are equally consensual acts, the relative percentage of cases con-

tracted in these two ways has no bearing on any of the issues discussed in this paper.

2. Similar reasoning would support closing "shooting galleries," places where there is widespread sharing of drug needles. The issues regarding paternalism and AIDS discussed here could be equally well discussed in terms of this possibility.
3. Lieberman, "The Reality of AIDS," p. 48.
4. *St. Louis Post Dispatch* (November 5, 1985), p. 3b.
5. John Stuart Mill, *On Liberty* (Indianapolis: Hackett, 1978), pp. 73-74, italics added.
6. Richard D. Mohr also seems to take the position that any rationale for closing gay baths must be an illegitimate paternalistic one. ("AIDS: What to Do--And What Not to Do," *Report from the Center for Philosophy and Public Policy* (Fall 1985): 6-7.) *Newsweek* quotes Dr. Dean F. Echenberg, director of San Francisco's Bureau of Communicable Diseases, to a similar effect regarding quarantines (September 23, 1985, p. 23).
7. Mill, *On Liberty*, pp. 94-96; H.L.A. Hart, *Law, Liberty, and Morality* (New York: Random House, 1966), pp. 32-33.
8. Hart (*Law, Liberty, and Morality*, pp. 30-34), Joel Feinberg (*Social Philosophy* [Englewood Cliffs: Prentice-Hall, 1973], Ch. 2-3), and others take it (rightly I should think) that there is a clear enough distinction between moralism and paternalism. (Lord Devlin, however, rejects the distinction, and John Kleinig questions both its clarity and moral importance. See Kleinig's *Paternalism* [Totowa: Rowman & Allanheld, 1983], pp. 14-16).
9. For instance, Hart, *Law, Liberty, and, Morality*.
10. On this question, see Kleinig, *Paternalism*, pp. 92-95.
11. I am not suggesting here that a financial burden is not a harm. Nor am I suggesting that it would not be a harm of the relevant kind to justify non-paternalistic interference. Rather, I am suggesting that any rationale for closings and quarantines in terms of this harm does not explicate our sense that the harm of AIDS itself ought to supply a non-paternalistic rationale for such actions. (Imagine a society in which, somehow, medical care were entirely cost-free on every level. This stipulation does not rid us of our intuition that AIDS poses a threat of harm to society.)
12. The line of reasoning in this paragraph makes explicit what is at least implicit in Lieberman and Krauthammer. In other words they seem to mean not just that the person who visits the bath or has sex with a carrier consents to his action but also anyone further down the line also consents to anything that could result in his getting the disease.
13. Mill, *On Liberty*, p. 95.

14. The view that even such temporary interference with action is justified has been called "weak paternalism." I take it, however, that this is far too weak a doctrine of interference to be called "paternalism" at all, and so my "anti-paternalist" is not opposed to this sort of interference. (Cf. Feinberg, *Social Philosophy*, pp. 49-50; Tom L. Beauchamp, "Paternalism and Biobehavioral Control," *The Monist* 60 (1977): 67-68.)
15. Cf. Mohr, "AIDS: What to Do ... And What Not to Do," p. 6. Rejecting paternalism, he maintains that education is the only appropriate response when a person is unable to assess the AIDS-risks involved in a course of action.
16. Despite the frequently heard alarms that AIDS can be and is rapidly being spread into and through the heterosexual community, "there is no clear evidence that AIDS in the United States has yet spread beyond the known risk groups, notably homosexuals and drug addicts." (*New York Times* editorial, "AIDS Alarms, False Alarms," February 4, 1987, p. 26.) The editorial backs up this claim and gives an extraordinarily sensible analysis of the reasons behind the well-intended alarms to the contrary. (But the actual extent of the risk to heterosexuals is not crucial here. "Alice," in other words, heterosexuals, should be informed of the degree of risk, whatever that might be.)
17. This is not to say that having to face just these alternatives (or those that Alice faces) really should be counted as harm. Whether it should be is a further question. Some of the considerations this further question involves are discussed in the paragraphs that follow above.

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