

AIDS - THE QUARANTINE OPTION?

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Justice Michael Kirby*

By the time this talk is broadcast, I will be in Geneva at the fourth meeting of the Global Commission on AIDS.

I will be sitting in that large oval room, under the symbol of the World Health Organization, struggling to advise that global body on the best strategies to adopt to combat AIDS and to contain the human immuno-deficiency virus which spreads its lethal consequences through the six continents.

Across the table will be Luc Montagnier and Robert Gallo - the two scientists credited with isolating the virus. Without their earlier scientific work we might still be looking, puzzled and helpless, at the rapid escalation of the epidemic, particularly in Africa and Latin America. Now at least we have the target in our sights. The world's top immunologists will report on the prospects for a vaccine and the progress in developing treatments to arrest or cure the infection. The Commission will also hear from epidemiologists and social scientists. And one of the Commissioners, the courageous Richard Rector, now living in Denmark, will bring us back to the human dimension, if ever in the rush of events we risk forgetting it. For six years

Director has been waging his own struggle against HIV. His office will give a human face to AIDS. It will add a sense of urgency to our deliberations.

At some stage the discussion will turn to Australia. Our record in promoting awareness and community education about HIV and AIDS is better than most developed countries. By early 1991 we have had more than 18,000 reported cases of HIV infection and more than 2,400 reported cases of full-blown AIDS. These figures certainly understate the real extent of the AIDS epidemic in Australia. But the rate of new infections appears to be slowing. The pattern of infections is changing - from young homosexual men to other groups at risk.

"Isn't it wonderful that Australia is doing so well", I will be told. "You must be a very mature and well informed society", they will say.

Should I bite my lip and accept, in silence, these plaudits? Should I just cast my mind's eye to the thousands who daily live and struggle with this condition? Or should I tell the truth about Australian attitudes to AIDS and what to do with those who are infected?

A recent report in the *Sydney Morning Herald* indicated that almost 50% of Australians surveyed supported the quarantine of what they described as "AIDS victims". The survey was conducted amongst 2,800 people around Australia. It showed that support for quarantining persons with AIDS - by which I assume it is meant with HIV - have risen by 10% in three years. When the survey was conducted in 1988, 39% favoured quarantine. In the recent survey, 55% of men and 43% of women (49% overall) supported quarantine. A like

survey in the United States found that only 26% of people in that country surveyed supported quarantine for people with HIV/AIDS.

In the Australian survey the group most in favour of quarantine were those 55 years and over. Of them, 62% expressed their support. Of those in the 18 to 24 year age group, 34% favoured quarantine. The strongest votes for quarantine came from Tasmania and South Australia.¹

The President of the New South Wales AIDS Council, responding to the survey, declared that it was "dramatic evidence of how appallingly [ill] educated the public is about AIDS". He said that "the views supported by this survey amount to ignorance and bigotry". Just as sombre was the comment of a representative of the Federal AIDS Policy & Strategy Branch within the Australian Department of Community Services and Health. He said that he found it "disturbing" that so many Australians advocated quarantine.²

We should not really be surprised about the response to the survey. Earlier generations of Australians were extremely brutal in their strategies of quarantine whenever public health epidemics broke out. Usually it was Chinese or other immigrants who were put in hulks off the coast, in shocking conditions, with little advantage in the control of the epidemic.³ Out of fear are born extreme reactions. Quarantine has been a typical response to public health crises of the past from Biblical times.⁴ Why not with AIDS? It is worth answering that question.

It is of course true that, if every person in Australia who had the HIV virus could be accurately found and isolated and the country thereafter hermetically sealed from the entry

of any person with the HIV virus, this would amount to one way to reduce the spread of the virus in our society. Naturally, we would have to be quite ruthless for those quarantined. They could never come out; not even for a day - not even for an hour. Barbed wire would be needed to lock in these fellow citizens. Because there is no cure, there could be no prospect of their release. They would be there for good. We would also have to be quite ruthless and rather rude at airports. It would not be good enough just to test young men with long hair, bright clothes or earrings. We would have to test everyone. The queues are quite bad at airports now. But we would have to add to them or require a HIV-free certificate before a visitor received a visa. But even this would not be good enough. The visitor might acquire the virus in Honolulu on the way. So there would be no alternative to testing everybody at every point of entry anywhere on the thousand miles of coast around Australia. We would become fortress Australia. Of course, if anyone were found HIV positive at the airport they would simply be turned away, unceremoniously. If they were Australians they would go straight behind the barbed wire.

But even that would not be enough. We would have to limit overseas travel for Australians because, thereafter, it would be overseas that that danger lurks. The cost of keeping 11,000 prisoners in Australian prisons would be nothing to the cost of keeping an estimated 50,000 quarantined patients with HIV and AIDS. We could not lump them into Victorian edifices. There is no chain of closed quarantine hospitals ready-built. So we would have to build them and provide staff 24 hours a day, 3 shifts, 366 days a

year.

Most of the quarantined patients would be young. Most of them would be working and have 10 or more productive years in them. We would just have to forego that. The cost in emotional deprivation of their parents, friends, to say nothing of their own stress would be enormous. But just the withdrawal of such a valuable resource from the economy, in difficult economic times, might be all our hard-pressed economy needed to send it to the bottom of the ocean.

And then there would be the danger of people who had escaped the test. The only way we could safely quarantine people would be to subject our whole population to the test. You never could be quite sure as to whether anybody had the virus. We would probably need special policing teams to deal with escapees who tried to avoid the test. Certainly we would have to repeat the test many times over because of the "window period". A person might not be producing antibodies; yet be positive. The test might have produced a false positive or a false negative. And, naturally, there would have to be procedures for appeal, review and reconsideration. At least out of this, lawyers would find a bonanza contesting authority. The cost of all these tests and all these institutions, of the special police and of the units at every point of entry on our vast coastline would be enormous. After we had paid for it, our declining economy would have little over for other health problems, let alone the multitude of other needs, including education of the young and vulnerable.

It is necessary also to spell out the kind of world in which such a response to the HIV/AIDS epidemic would reduce

other countries as well as our own. If one country adopted the fortress mentality, others would surely follow. International movement, which is such an important contribution to peace, would be sharply curtailed. And what of the families and friends who insisted upon sharing their lives with the infected? The horrors of the picture of strict quarantine have only to be painted to demonstrate how totally unrealistic is this response to the HIV crisis. Yet one in every two of our fellow citizens in Australia believes that it is the right thing to do with HIV and AIDS. Clearly, we have failed in an important aspect of public education. It is therefore necessary to go back to fundamentals.

I fully realize that quarantine, in order to be judged "successful", does not need to be *totally* effective. The isolation of most, but not all, cases of infection might slow the rate of exposure of members of the community and be counted worthwhile for that reason. But it is obvious that the respondents to the survey of Australian public opinion which I have quoted contemplated a total (or as near as possibly total) isolation of *all* people infected with HIV. That is what many of our fellow citizens think. A half-way house by which some infected people only were quarantined would (flagrant cases apart) raise serious issues of equity and effectiveness.

Past history shows that epidemics and quarantine do not, typically, bring out the best in society. Quarantine takes on its own dynamic - with an army of officials dedicated to its success and expansion. That is the nature of bureaucracy. An appreciation of the peculiar features of HIV and especially the limited modes of transmission, teaches

us the gross disproportion of the quarantine response. In AIDS and HIV we must, above all, keep our sense of proportion. It is an anchor for moral but also for effective decisions. Good laws and policies on AIDS and HIV will be fashioned not by copying ignorantly irrelevant models of the past, not by pandering to the fears of Biblical times - but by examining scientifically the nature of the virus, the modes of its transmission and targeting them in our strategies. This time, with this epidemic it behoves an informed world to do better.

When, therefore, I join with my fellow Commissioners of the Global Commission on AIDS to celebrate in Geneva the good news that the Australian epidemic appears to have slowed, I will caution that the *real* tests for sustaining the educational effort and for caring for the sick, lie ahead. Let us hope that the light at the end of the AIDS tunnel is not the oncoming train of intolerance and inhumanity.⁵

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FOOTNOTES

1. *Sydney Morning Herald*, 21 February 1991, 7.
2. *Loc cit.*
3. See P H Curson, Times of Crisis, Epidemics in Sydney 1788-1900, *Syd Uni Press* 1985, 9.
4. Council of Europe, "Criminal Law and Criminological

Questions Raised by the Propagation of Infectious Diseases, Including AIDS", Paper in the 16th Conference of European Ministers of Justice, Lisbon, June 1988, Strasbourg, 1988, 3 (paper MJE-16 (88) 1).

See I Gust, "AIDS Vaccines". Unpublished paper presented at the Australian Society for Infectious Diseases Meeting, Lorne, Victoria, 17 April 1991, 11.