

## To what extent does the spread of an epidemic justify the limiting of human freedom?

(A sample answer, not a perfect answer, and not the only answer)

To simplify matters I will assume the rule of law prevails. Of course, it may be argued that such an assumption is usually unwarranted given that when and where epidemics rage there are sometimes conditions approaching anarchy amongst the people. In general terms, to limit human freedom would be justified on the grounds that not to do so would lead to at least four undesirable consequences: first, the unchecked spread of a pernicious disease; second, greater difficulty in treating those who are diagnosed with the disease; third, following from the previous two, the stretching of limiting medical resources perhaps to breaking point; fourth, the threat to society *per se*, the continuance of which is necessary to sustain and promote human flourishing. In cases where action is thought necessary, the limiting of human freedom will normally be shown in the confinement of sufferers and in the restriction of movement of those exposed to the disease. However, measures such as a compulsory programme of vaccination or the keeping of names and medical details of sufferers on a national register might constitute a limiting of freedom.

To some extent the answer hinges on the nature of the disease. Obviously, serious measures are not required when the disease itself is deemed to be a common ailment, or when the risk of its spreading is low. When the disease is life-threatening, we must still consider the manner of its spreading. For example, a sufferer of a pernicious air-borne disease like tuberculosis will, whether they wish it or not, expose others to the disease merely by being in their vicinity. In the past, sanatoria for sufferers of tuberculosis existed throughout England, and these were places at a remove where the sufferers could

receive treatment with the risk to the rest of the community being low. Could one justify sanatoria for AIDS sufferers on the same grounds? This is more problematic; one who knows they're a carrier of the HIV organism will normally contribute to the spread of an epidemic by acting irresponsibly (sharing needles when taking drugs, and so on). Thus measures aimed at containing the spread of HIV/AIDS by forcibly confining sufferers and known carriers to sanatoria would be seen as an unjustified attack on the sufferer's autonomy and ability to lead as normal a life as possible whilst contributing to the stigma suffered by carriers of the virus.

What do classical ethical approaches yield when applied to the question above? A utilitarian stance, with its emphasis on the greatest happiness of the greatest number, would seem, in theory, to justify the removal of known sufferers of a contagious disease from society and their secure confinement, if only because their possible discomfort and distress at being confined against their choosing is outweighed by the continued well-being of many others who might be struck down in the event of the sufferers being allowed their usual freedom. The sum total of human happiness would be increased if there is humane effort to secure sufferers in as beneficial an environment as possible. Furthermore, one could justify the limiting of movement of those already exposed to the contagious disease on these raw utilitarian grounds. If the disease is such that its spread requires the irresponsible free action of sufferers (as is usually the case for HIV/AIDS) then the utilitarian must attempt to gauge the risk of allowing the sufferer their usual freedom in the hope they act responsibly. A more sophisticated *rule-utilitarian* approach would seem to allow the

usual freedom for this sufferer because if one always acted to limit the freedom of those who could *possibly* harm others with intent then human interaction would cease. Raw act-utilitarian approaches are particularly suspect when one considers the distribution of justice; one could justify the wholesale confinement of persons on the grounds of their having been exposed to disease. Even when such persons have been tested free of the particular disease, the raw utilitarian stance would justify their loss of freedom if the greater part of the community threatened revolt if they were released.

Kantians might raise objections on the grounds of using people solely as means - in this case, the removal of a diseased person from my proximity solely for my safety and happiness. So, that moral imperative to confine a disease by limiting human freedom must be accompanied by a duty to those unfortunate enough to have caught, or been exposed to, the disease. Some might even see those carrying disease as 'aggressors' (albeit unintentional) of a kind, and draw some insight from, say, Just War criteria with its sanction of legitimate self-defence. In this case, such a defence may well entail the limiting of freedom of the carrier. The Torah outlined the pragmatic response to the problem of those carrying dreaded communicable diseases (usually translated as leprosy). Sufferers were to be set apart from the community; they had a duty to warn (from a safe distance) villagers of their disease. The villagers had an obligation to try to provide for the needs of the sufferers, for example, by leaving food at agreed points.

This leads us to considering a Christian response: love of one's neighbour is most clearly shown when one's neighbour is in need. In the Parable of the Sheep and Goats, Christ identified himself with the needy of the world: the naked, the hungry, the sick, the imprisoned, the stranger. In Christian thinking, we may well have to limit human freedom in the case of the spread of an epidemic but we cannot forget the human whose freedom is being limited. '*I was sick and you came to visit me*' is a polar opposite to '*I was a victim and you cut yourself off from me*'. To visit a sick person is to bring the community to the individual deprived of it; we may broaden this to a principle that states that the sufferer must, as far as possible, participate in the life of the community. Further, the Christian regard for the sufferer serves to remind us of the duty to deal with the causes of epidemics when these link with poor socio-economic circumstances. Fletcher's situation ethic seems appropriate when considering the moral demands thrown up by the spread of an epidemic. In the unpredictable situations arising from the spread of a disease, the Christian may have no reliable norms except to do the most loving thing as the situation demands.

In conclusion, the limiting of human freedom may be justified on a number of grounds, the spread of an epidemic may well be among them. It seems to me that measures limiting freedom must always be accompanied by measures to preserve the limited freedom, autonomy and rights of the sufferer, with a view to their returning, if possible, to the full community.