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## In my opinion

### Keep the

# LAW

### out of the bedroom

When a condom is used, should HIV positive individuals still inform sexual partners of their infected status? Of course. But should HIV positive individuals be legally required to provide such information? According to a New Zealand court, as long as a condom is used, there is no legal duty of disease disclosure prior to sexual intercourse. This ruling is the first of its sort, creating a legal precedent which may be modeled world-wide.

And that's a good thing.

The case that led to the New Zealand ruling involves two people who met over the Internet. The man was HIV positive, the woman was not. Although the pair used a condom, Justin Dalley did not reveal his infected status. When Ms. X (the woman's name was suppressed from the media) discovered, after the fact, that Dalley had HIV, she went to court and charged him with two counts of criminal negligence. If Dalley had been found guilty, it may have set the precedent that HIV positive individuals who don't reveal their condition have committed an illegal act.

Dalley, however, was acquitted under the ruling that in using a condom he had taken necessary precautions to protect his partner. Instead of winning her case, Ms. X helped craft an important legal stepping stone in terms of sexual responsibility and the role of the government in the bedroom.

Ms. X is now campaigning for a law that would require individuals with HIV to reveal that fact before engaging in intercourse.

And that is a terrible idea.

To begin with, the decision to trust another human being is a personal decision, and that trust should not be



AILEE SLATER  
FURTHER FROM PERFECTION

influenced at any level by a meddling arm of the law. Would Ms. X have trusted Dalley more, knowing that the law would offer retribution if it turned out the man was lying?

Dalley made a bad decision, but so did Ms. X, and a legal charge of criminal negligence wouldn't change the fact that Ms. X trusted Dalley enough to have sex with him in the first place. If Ms. X is comfortable having intercourse with someone she met over the Internet, but not comfortable asking that person to show her a clean bill of sexual health, then she ought to work out that internal discrepancy on her own. The law has no power to imbue either Dalley or Ms. X with a working moral compass.

It is interesting to note that a requirement of HIV disclosure would basically produce a law demanding that the Truth be told. Unfortunately, there is no way to evaluate whether a sexual partner is telling the truth about his or her disease status sans taking a look at concrete medical evidence, which is exactly what sexual partners should do regardless of any law. For Ms. X to accuse Dalley of "criminal negligence" is to absolve herself of personal responsibility.

Especially frightening about a legal HIV disclosure requirement is the false sense of security contained

within such a policy, making silence an indicator of being free from disease. Many HIV carriers are unaware of their infected status; if their sexual partners rely on an HIV disclosure law instead of concrete results from testing, myriad people will be unknowingly at risk, simply because everyone involved believes they are telling and receiving the truth. The law does not regulate the truth. Evidence regulates the truth, and there is no way around that fact.

The law also cannot take the place of self-respect: If Ms. X didn't have the wherewithal to look after herself in the first place, a legal precaution against lying can hardly offer protection. Ms. X wanted the law to act as a substitute for simply getting an HIV test with her current sexual partner, but the law should also not endorse laziness. As long as it is fairly easy to check if your sexual partner has HIV, there is no need to legally prevent (or attempt to prevent) that person from lying to you.

Most importantly, we can't take refuge in the assumption that The Law has some overarching power to keep everyone safe, all of the time. Unless Ms. X is advocating for a Big Brother situation, there is no way the legal system can protect individuals from their own poor decisions. The next time Ms. X is having a private moment in her bedroom, or the legal spotlight, she ought to remember that no one can take better care of her than herself. Shifting the responsibility of personal health and safety to rest on the shoulders of the legal sphere will inevitably cause more damage than good.

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## INBOX

### Decision to run offensive cartoon misguided

I am appalled at the cartoon you allowed to be published in your issue of The Oregon Daily Emerald on Oct. 3. To say that the cartoon is immature or sophomoric is an understatement. It is distasteful and makes me question the ethical integrity of the Emerald staff, especially the editors who allowed it to be printed. Are there so few interesting issues on this campus that Aaron DuChateau felt warranted poking fun at a harmless member of our University community?

The individual targeted by the cartoon is obviously Frog, the local joke book vendor who sells his books on 13th Avenue just outside of the bookstore. Frog is a valuable member of this community who cherishes his relationship with University students. I would like to ask DuChateau: As someone who "hopes to pull the emphasis of visual commentary back to issues and matters concerning the

University of Oregon and the students enrolled here" (quote taken from DuChateau Emerald bio), what right do you have to publicly mock an innocent man selling books on the street? The next time DuChateau wants to use a phrase like "morally reprehensible" in a cartoon, have him look up the meaning first.

**Devlin Croal**  
University Senior

### Bush's record doesn't deserve support

He's trying our patience. He says those familiar words "strong resolve." He says that we should increase sacrifice overseas to increase security at home. He says that an inexperienced personal friend is the "best he could find" for a powerful judicial position. He says that the United States has thwarted 10 attempts of terrorism, as suicide bombs kill every day overseas.

He is trying to distract us. He redirects the attention from New Orleans

by saying that the government does care, even though they left people stranded on rooftops, all the while refusing foreign aid. He says he favors small business, yet contracts in New Orleans were handed out with no bidding process. He insists that our economical and human resources should be used on war instead of at home.

While a soldier is tried and convicted of crimes against prisoners, he pushes for the veto of a law that would protect prisoners from similar atrocities. He is aware of his plummeting support. He is scrambling to find something to grab onto before he sinks into the stinking, vile pit he has dug for himself.

He is failing miserably. He thinks we believe him. He knows we don't support him. He is scared. He is against the ropes. He is waiting for the knockout punch. Let's give it to him. Withdraw your support, discontinue your apathy and stick it to the man.

**Ray Cole**  
Eugene

## Editorial

# It takes more than mere cronyism to be a judge

If nothing else, it can be said that Harriet Miers has the power to unite our country. Republicans and Democrats alike are outspoken about their dislike for President Bush's most recent Supreme Court nominee.

Political officials on every side of the spectrum agree that Harriet Miers' nomination is completely unfounded, considering her lack of judicial experience. Although she graduated from Southern Methodist University School of Law, Miers has never concentrated on the field of constitutional law. Miers has worked as an attorney for years, but has no "paper trail" predicting what role she will play as an associate justice of the United States, especially when ruling on social issues.

Miers is, however, a member of Bush's Texas running club.

With no track record of previous judicial decisions, it is impossible to know how Miers will influence future Supreme Court votes. Republicans fear that Miers will not be conservative enough, while Democrats fear just the opposite — that Miers and Bush have already set up an agenda to overturn *Roe v. Wade*.

But all affiliation aside, the key fact remains that unqualified citizens should not be in charge of our nation. Didn't Bush recently learn that a commissioner of the International Arabian Horse Association cannot handle the duties of FEMA? Miers is another frightening example of this administration's tendency to reward loyalty and friendship rather than knowledge and experience. Bush and Miers have a kinship spanning more than 10 years, but the President cannot expect to justify political appointees with his own positive personal experiences.

Filling a vacancy on the Supreme Court is not a job that should be taken lightly, because the U.S. Constitution is a delicate article: One person's interpretation of one single word in the document can have severe ramifications for an entire nation.

At this juncture, it appears questionable whether Miers will continue on as a nominee. Should Bush give in to the demands of conservatives and become responsible once more for nominating a justice, the president must take into consideration the attitude of political leaders nationwide.

Bush should not provide a nominee who will clearly espouse a narrow political viewpoint. In fact, we hope he would name a candidate who, through a proven judicial record, will review each case based on its individual merits.

Foremost, he should not attempt to fabricate this sense of judicial objectivity by simply nominating someone without a record.

Bush may know Miers well, but the rest of the country does not, and there are no empirical judicial decisions to give any idea of how the United States might change under her influence. It shouldn't be a surprise that almost everyone involved in the nominating and appointing process is feeling a bit squeamish about Harriet Miers.

A system of nomination based on personal camaraderie is unjust and highly inappropriate in decisions involving the U.S. Supreme Court. And if Bush can't convince even his own conservative base that Miers is a good choice, she probably isn't.

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