

Philosophy 104, Ethics, Queens College  
Russell Marcus, Instructor  
email: [philosophy@thatmarcusfamily.org](mailto:philosophy@thatmarcusfamily.org)  
website: <http://philosophy.thatmarcusfamily.org>  
Office phone: (718) 997-5287

Lecture Notes: Liberty and Drug Use

Mill's Harm Principle, p 369, rejects paternalism.

We generally avoid paternalism, but there are some paternalistic laws, enforcing seat belts and bike helmets, and prohibiting suicide and euthanasia.

It follows that we have certain specific rights, p 370

- 1) To thought and feeling
- 2) To tastes and pursuits
- 3) To assembly

The harm principle doesn't apply to children (or barbarians, pp 369-70)

We have that period to educate them.

After that, they're on their own.

If they behave in poor ways (are lazy, irresponsible, drunk, etc.) the repercussions are on them.

But if they harm others, then they are punishable, p 375.

And, better, we may use social pressures against such people

Given the harm principle, what may we do with someone who is a bad influence?

We may encourage others to avoid them

We may smear their reputations

We may not, as a society, prevent them from being who they choose to be.

What about drugs, and other clear cases of bad habits for the individual?

We may talk about the harm, show why such behavior is harmful, discourage it through words or actions.

But we can't make such behavior illegal or punish the person, pp 370-1.

Goodin

From Mill, and further back, the presumption against paternalistic laws has been significant.

Still, drug laws are an area where there has been a great deal of emotional support for paternalism.

Goodin supports paternalistic laws against smoking.

Note that the anti-smoking law in NYC is a workplace law, justifiable via the harm principle.

It's hard to justify these laws, when the user seems to be taking the drugs of his or her own free will.

It's easier to argue that the drugs impair the user's good sense.

This tends to rest on a pharmacological argument about addiction.

Shapiro calls this 'the standard view', p 399.

Goodin argues that the standard view extends even to cigarettes, since they, too, are addictive.

It's one thing to argue against the free will of the user in the case of heroin use.

Here we are more willing to think of the user in the grip of his/ her addiction.

The drug in fact impairs judgment, as with cocaine, and hallucinogens.

This is the point of the drug.

Of course, most users aren't usually under the influence of the drug.

Utilitarian considerations

Cost of hospitalization and treatment (\$52-62 billion/ year in America, says Goodin (394)

But smokers die anyway, and more quickly, at a younger age!

And they don't deplete social security as much.  
Any economic considerations have to be balanced by utilitarian considerations of utility of smoking.  
These are difficult to determine, though economists have tools.  
Usually, we can tell by how use reacts to price fluctuations (raising sin taxes).  
But smoking remains relatively consistent.  
Either people really like it, or they're really addicted.

These aside, let's examine the validity of the paternalistic argument.  
Paradigm of informed consent.  
Paternalism is justified if the danger is great.  
If you've given your informed consent to smoke, and the concomitant health risks, it's hard to justify.

Goodin says this becomes two questions, p 389

1. Do the smokers know the risks?
2. Can they voluntarily accept them?

Answers:

1. The tobacco companies have obscured and misinformed, giving weak warnings, perhaps unclear messages and mixed signals. They advertise, for example, smoking combined with danger sports.
2. Cognitive defects, pp 390-1: wishful thinking, anchoring, time-discounting.

Users have to appreciate the bad effects in an emotional way, 391b

Goodin argues that no one would rationally smoke, therefore if they do smoke, it must be because their rationality has been impaired, and therefore paternalism is justified.

This is a weak paternalism, working within the individuals' own theory of the good, p 391a.

Shapiro argues that "The standard view that cocaine are *inherently* addictive is false, because no drug is inherently addictive." (P 404)

Addiction is a social construction.

It combines drug, (mind) set, and setting (social context).

There's no purely pharmacological basis for addiction.

Consider drinking in Finland (or here!) v drinking in Mediterranean countries.

Vietnam and heroin use.

Cocaine among the middle class.

Cigarettes are addictive, but because of their social uses: relaxation, taking a break, oral gratification.

What we should say, according to Shapiro, is that people addict themselves.

But not all people, only those in certain situations.

Addiction is fostered by expectation.

If you expect to get drunk you will.

The placebo effect, p 402a.

Shapiro is making a distinction between use and abuse, p 402b

He alleges that if we were to legalize, we wouldn't get an explosion of abuse.

But we do have an explosion of cigarette smoking, with ill effects.

Shapiro says that it's due to an unhealthy attitude toward smoking (set and setting).

How do we change this?

Shapiro doesn't address that.

Goodin urges a weak paternalism, since we obviously can't handle the liberty we have.

This applies broadly, to stronger drugs, as well.

Shapiro urges a lessening of paternalism, since we can handle more than we have, as long as we adjust the social context appropriately.