

Philosophy 104, Ethics, Queens College, Spring 2006
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Lecture Notes, May 1

I. Quiz: Describe Mill's Harm Principle

II. Goodin and Anti-Smoking Laws

From Mill, and further back, the presumption against paternalistic laws has been significant. Still, drug laws are an area where there has been some popular support for paternalism. Goodin supports paternalistic laws against smoking. Note that the anti-smoking law in NYC is a workplace law, consistent with the harm principle.

It is hard to justify paternalistic anti-drug laws, when the user seems to be freely taking the drug. One might argue that a drug impairs the user's good sense. Goodin takes a commonsense, pharmacological view of addiction, which Shapiro calls 'the standard view', p 516. On this view, we should prohibit drugs which create a detrimental physical dependency, one which makes the user irrational in pursuit of his drug of choice. Szasz assimilates addiction to harder drugs to our need to eat and drink and read comic strips. He thus ignores the motivations for the standard view. Goodin supports the standard view, and extends it to smokers. Shapiro will argue against the standard view.

The argument that the heroin user has lost his free will has some plausibility. We are 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 are not usually under the influence of the drug. This argument, that the user has no free will, is harder to make in the case of cigarettes, which do not impair judgment in the same way. Goodin argues that the standard view extends to cigarettes since they, too, are addictive.

III. Utilitarian considerations concerning anti-smoking laws

The cost of hospitalization and treatment is high (\$52-62 billion/year in the U.S., according to Goodin (1989), p 511). But smokers die anyway, and more quickly, at a younger age. And they don't deplete social security.

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.

Put these aside.

IV. Back to the paternalistic argument, and the doctrine of informed consent.

The doctrine of informed consent is widely accepted in medicine.

It says that a patient should be informed of all treatments, so that he can make a rational decision about his treatment.

Note that this doctrine opposes paternalism.

Doctors should provide information, and let patients decide how to proceed.

Paternalism is only justified if the danger is great.

The smoker seems to have given his informed consent to smoke, knowing the health risks.

Goodin, defending paternalism, has to show that the smoker has not given informed consent, pp 506-507.

He argues that smokers do not really know the risks.

The tobacco companies have obscured and misinformed, giving weak warnings, and unclear messages.

They advertise, for example, smoking combined with danger sports.

Further, smokers do not voluntarily accept the risks, since they suffer from cognitive defects, p 508.

E.g. wishful thinking, anchoring, time-discounting.

Users have to appreciate the bad effects in an emotional way, p 508.

Goodin argues that no one would rationally smoke.

Therefore if one smokes, it must be because one's rationality has been impaired.

Therefore paternalism is justified.

This is a weak paternalism, working within the individual's own theory of the good, p 508.

In other words, I want to be healthy.

I may perform actions which I mistakenly think will not affect my health.

So, I need help to achieve a goal that I already accept.

Contrast this weak paternalism with a strong paternalism which enforces principles I do not accept.

For example, enforced allegiance to a political doctrine like communism.

V. Freedom and social utility

Goodin defends paternalistic anti-smoking laws on the basis of the irrationality of smoking.

We do not normally accept laws enforcing rational behavior, though.

We allow people to gamble, even allowing the state to run lotteries.

We allow them to make poor decisions regarding their education and work.

My freedom may oppose my welfare.

This is why Mill's defense of liberty on the basis of utilitarian principles is strained.

We may have to choose between freedom and utility, for myself, and for society at large.

VI. Drug addiction

Goodin's paternalism is based on the irrationality of cigarette addicts.

Since smokers are addicted, they have lost their ability to rationally choose how to act.

Shapiro denies the received view concerning addiction.

"The standard view that cocaine is *inherently* addictive is false, because no drug is inherently addictive," p 519.

Shapiro argues that addiction is a social construction.
It combines drug, (mind) set, and setting (social context).
He alleges that there is no purely pharmacological basis for addiction.
Compare drinking in Finland with drinking in Mediterranean countries.
Or consider heroin use among American soldiers in Vietnam.
Many did not continue to use the drug when they came home.
Similarly, consider cocaine among the middle class, where it may not disrupt lives.
Cigarettes are addictive, but because of their social uses: relaxation, taking a break, oral gratification.

According to Shapiro, some people in some situations may addict themselves.
But no drug is addictive in itself.

Addiction is fostered by expectation.
If you expect to get drunk you will.
The placebo effect, p 518.

VII. Use and abuse

Shapiro, like Szasz, is distinguishing use from abuse.
He alleges that if we were to legalize drugs, we would not get an explosion of abuse.
Szasz argued that the only people who abuse drugs are those predisposed to abuse them.
If Szasz is right, then we should expect that wider availability would not lead to wider abuse.
Still, there are lots of cigarette smokers, with ill effects.