

5 } Drugs, Gambling, and Addiction

In 1973, U.S. president Richard M. Nixon appointed Myles Ambrose to head up a new agency—the Drug Enforcement Administration (DEA)—which announced a war on drugs. How successful this “war” has been in its thirty-year history is a matter of dispute. According to some sources, the international trade in illegal drugs is now a thriving \$400 billion a year business. The war on drugs—which most recently has focused on the production and use of methamphetamine—has brought to public attention various moral and legal questions about drug use, among them the following:

- Is it morally permissible to take drugs?
- In those cases (if any) in which taking drugs is morally wrong, what explains its wrongness?
- Is it morally acceptable for a government to pass laws that make the production and consumption of such drugs illegal?

The very same questions arise in connection with gambling, but for the time being let us focus exclusively on moral issues concerning drugs. Our questions refer simply to drugs, but there are all sorts of drugs that can be easily obtained over the counter (aspirin, cold medications, and so on), as well as drugs one can legally obtain by prescription. Moral disputes about drugs have only pertained to certain kinds of drugs. So let us begin by clarifying the sorts of drugs that are at issue.

1. DRUGS

Speaking most generally, a **drug** is any chemical substance that affects the functioning of living things (including the organisms that inhabit living things). *Medical uses* of drugs are for the purposes of prevention and treatment of disease, whereas *nonmedical uses* include uses for religious, aesthetic, political, and recreational purposes.¹ What is often called *drug use* refers to the nonmedical use of so-called **psychotropic drugs** that produce changes in mood, feeling, and perception. Psychotropic drugs (at least those that are the subject of moral and legal scrutiny) are often classified into these groups: opiates, hallucinogens, stimulants, cannabis, and depressants. Here is a short description of each of these types.

Opiates include opium, heroin, and morphine. Opium, obtained from the seed pods of the poppy plant, has as one of its main constituents morphine, from which heroin was developed. These drugs (also referred to as *narcotics*) are highly effective in reducing or eliminating pain and inducing sleep, but they are also highly addictive and strongly associated with drug abuse.

Hallucinogens are often referred to as “psychedelics” and include LSD, mescaline (the active ingredient in peyote cactus), and psilocybin and psilocin, which come from Mexican mushrooms. One effect of these drugs (for which they are sought) is their capacity to alter perception by inducing illusions and hallucinations.

Stimulants include cocaine (derived from cocoa plants), crack (a concentrated form of cocaine), caffeine, nicotine, amphetamines, methamphetamine (“meth”), and diet pills. When taken in small doses, these stimulants typically produce a sense of well-being, increased mental alertness, and physical strength, but large doses may produce increased excitement and mental confusion.

Cannabis is derived from a hemp plant (*Cannabis sativa*) and includes marijuana, hashish, and other related drugs. The effects of this drug vary in strength, depending on the preparation, and compare with those associated with hallucinogens.

Depressants include sedatives, barbiturates, and alcohol, which produce drowsiness and sedation.

In moral and legal discussions of drugs, drug abuse, and drug addiction, the term “drug” is meant to refer to the kinds of psychotropic drugs just described.² Because there are many types of (psychotropic) drugs, it is important to be aware of their differences, which may be important for sorting out the morality of drug use. Heroin, LSD, and cocaine differ in some ways from one another, and as a group they all differ markedly from nicotine. But like the “harder” drugs, nicotine is addictive. So, if one argues for the legal prohibition of hard drugs based on their alleged addictive powers, what about smoking? Should it be illegal too? Before getting to these questions, let us briefly consider the nature of addiction.

2. ADDICTION

Addiction is most closely associated with drug use, but the term is often used very broadly to refer to a type of compulsive behavior involving dependence on some substance or activity which, for whatever reason, is undesirable. Thus, we hear of sexual addiction and gambling addiction, as well as drug addiction. If we concentrate on drug addiction, it is common to distinguish *physical addiction* from *psychological addiction*. Addiction of both sorts involves a dependence on a drug despite its ill effects on one’s health, work, activities, and general well-being. Physical addiction is indicated by physical withdrawal symptoms that occur when an individual ceases to use the drug—symptoms that include body aches, constant movement, and fitful sleeping. Psychological dependence involves a strong desire or perceived need to take the drug for its psychological effects (e.g., a sense of well-being), where withdrawal does not produce the physical effects characteristic of physical dependence. As mentioned earlier, opiates are highly physically addictive, whereas marijuana is psychologically addictive.

What is called **drug abuse** is the excessive nonmedical use of a drug that may cause harm to oneself or to others, including, for instance, abuse of alcohol by drinking too much on some one occasion. Here, we are focused on addiction. There are disputes about the nature of drug addiction. On what Daniel Shapiro calls a “standard view,” addiction is caused by the pharmacological effects of the drug—the drug itself is the source of the addiction. On a nonstandard view defended by Shapiro, addiction results from the interplay of the drug, a user’s personality, and social circumstances.

The dangers of drug addiction are often cited in disputes over the morality of government interference in the use of drugs for nonmedical reasons. So let us turn to questions about drugs and the law.

3. LIBERTY-LIMITING PRINCIPLES

In discussions of the morality of the legal restriction and prohibition of drugs for nonmedical uses, the same liberty-limiting principles that we discussed in the previous chapter on censorship are relevant here. Here, then, is a brief summary of the previous discussion of these principles. (For more detail, see section 2 of the introduction to pornography, hate speech, and censorship.)

A **liberty-limiting principle** purports to set forth conditions under which a government may be morally justified in passing laws that limit the liberty of its citizens. There are four such principles.

The Harm Principle

According to the **harm principle**, a government may justifiably pass laws that interfere with the liberty of individuals in order to *prohibit individuals from causing harm to other individuals or to society*. The harms in question include both serious physical harms (e.g., maiming, killing, inflicting injury) as well as serious psychological and economic harms.

The Offense Principle

According to the **offense principle**, a government may justifiably pass laws that interfere with individual liberty in order to *prohibit individuals from offending others*, where offensive behavior includes causing others shame, embarrassment, or discomfort. Laws against public nudity are often defended by appealing to this principle.

The Principle of Legal Paternalism

According to the principle of **legal paternalism**, a government is morally justified in passing laws in order to *protect individuals from harming themselves*. Motorcycle helmet laws and seat belt laws are often defended on the basis of this principle.

The Principle of Legal Moralism

The principle of **legal moralism** states that a government may justifiably pass laws that interfere with individual liberty in order to *protect common moral standards, independently*

of whether the activities in question are harmful to others or to oneself. This principle is often used in the attempt to justify laws against so-called victimless violations of moral standards—violations that are (arguably) neither harmful to self or others and, because they are not done in public, are not offensive to the viewing public.

There are two points about the use of these principles worth noting. First, in order for a government to appeal to one of these principles in an attempt to morally justify laws that interfere with individual liberty of its citizens, two conditions must be met. First, the principle in question must be a correct liberty-limiting principle—it must correctly state a condition under which a government can (really) morally justify limiting the liberty of its citizens. Second, the activity or practice in question must satisfy the condition set forth in the principle. If, for instance, one appeals to the harm principle to prohibit the production and consumption of a type of drug, then one must show that the use of the drug in question does cause harm to other individuals or to society generally. (Additionally, one must show that the level of harm that would be caused by use of the drug under conditions where it is not prohibited by law would be higher than the level of harm that would result from passing and enforcing laws against its use.)

The second general point is that some of these principles are relatively uncontroversial, but others are not. The harm principle is relatively uncontroversial. And perhaps the same can be said of the offense principle. However, the principles of paternalism and legal moralism are quite controversial, particularly in liberal democratic countries such as the United States. In such countries that strongly value individual liberty of choice, it is widely believed that the proper role of government is limited to preventing harm (and perhaps offense) to others.

4. DRUGS, LIBERTY, AND THE LAW

Here it is important to distinguish the issue of **drug prohibition** versus **legalization** from the issue of **drug criminalization** versus **decriminalization**. Peter de Marneffe, in his selection included in this chapter, defines drug prohibition as referring to legal penalties for the manufacture, sale, and distribution of large quantities of drugs. Drug legalization refers to having no such penalties. By contrast, drug criminalization refers to criminal penalties for using drugs and possessing small quantities of drugs, while drug decriminalization refers to the opposite of criminalization. The importance of distinguishing prohibition from criminalization is that it is possible to defend the former but reject the latter (as we shall see in our readings).

In debates over the legalization and the decriminalization of nonmedical uses of drugs, the principles of harm, paternalism, and legal moralism are all relevant. To appeal to the harm principle requires demonstration of harm to others or to society generally caused by the use of the drug in question. It is widely believed that many of the drugs mentioned earlier are addictive and thereby lead to the commission of crimes that cause harm to others and society. However, as we shall see when we read the article by Daniel Shapiro, there is disagreement about whether drug use is the cause of crimes that are committed owing to addiction. Furthermore, in order to justify a law by the harm principle, one must show that the level of harm that would likely result from not having a law prohibiting use outweighs the level of

harm that would likely result from having a law. Again, those in favor of the legalization of drugs often argue that given the crimes that are committed as a result of a black market in the production, distribution, and sale of drugs, existing drug laws ought to be repealed. David Boaz defends this view in the first selection, while Peter de Marneffe opposes legalization of the sale, manufacture and distribution of drugs, though he also argues that it ought not to be against the law for individuals to use drugs or possess small quantities of drugs.

Nicotine is an addictive drug, and so the legality of smoking has recently received some attention from philosophers. In the United States, laws prohibit smoking in certain public places including airports and shopping malls. And some states have laws that prohibit smoking in restaurants. All of these laws can be justified by the harm principle. However, in his article, Robert E. Goodin takes a more radical approach to smoking and the law: he advocates a principle of legal paternalism and explores the implications of this liberty-limiting principle for the activity of smoking.

Having reviewed some of the basic concepts and principles involved in questions over the morality of government interference in the nonmedical use of drugs, let us turn briefly to the issue of gambling.

5. GAMBLING

Gambling (at least roughly speaking) is betting on an uncertain outcome in which one risks something of value in the hope of receiving something of greater value. Playing lotteries and casino games are clear cases of gambling, which is sometimes said to be addictive and for this reason (among others) morally suspect. Thus, we can raise the very same sorts of questions about gambling that were just raised about drugs.

- Is gambling morally permissible?
- In those cases (if any) in which gambling is morally wrong, what explains its wrongness?
- Is it morally acceptable for a government to pass laws that make various sorts of gambling illegal?

Focusing on the first two questions, if one searches the Internet for articles about the morality of gambling, one finds many antigambling arguments that appeal to religious considerations. But there are secular antigambling arguments, including arguments that appeal to consequentialism, to Kantian moral theory, and to virtue ethics. Whether any of these arguments is persuasive is discussed in the article by Peter Collins.

6. THEORY MEETS PRACTICE

We have already considered arguments regarding the moral permissibility of passing laws that would interfere with an individual's liberty to obtain and use drugs. And arguments

about gambling that would appeal to one or other of the liberty-limiting principles should be relatively clear from the previous discussion of drugs, liberty, and the law. So let us turn to issues of personal morality and consider the kinds of moral arguments that are grounded in some of the major moral theories.

Consequentialism

For the consequentialist, the morality of an action (or practice) depends on how much overall intrinsic value (or disvalue) it would bring about compared to alternative actions (including the alternative of simply refraining from the action under scrutiny). So this view implies that whether taking a drug is wrong depends on its effects—where we consider the effects both on the individual performing the action and on anyone else affected. Presumably for the consequentialist, the morality of taking a drug will vary from person to person depending on how much overall value would be brought about.³ Applying the theory with any degree of accuracy will require some reliable information about one's own personality and circumstances—how taking a drug will likely affect you and others—and so will be no easy task.

Kantian Moral Theory

According to the Humanity formulation of Kant's categorical imperative, an action is morally right if and only if in performing it one does not treat persons as mere means to an end but as ends in themselves. What does this principle imply about the morality of drug use? Again, this will depend on the drug in question as well as the quantity used and the frequency of use. Of course, drug use that harms others constitutes a failure to treat those others as ends in themselves, as would any gratuitous harm. The same holds for gambling. But perhaps the more interesting question from a Kantian perspective is whether drug use or gambling represents a violation of one's duty to self. Arguably, if either drug use or gambling would hinder the development of those important physical, moral, aesthetic, or intellectual capacities that are part of a balanced human existence, then such activities would be wrong—a violation of one's duty to oneself. This same kind of point about Kantian moral theory is made by Peter Collins in his article on the morality of gambling.

Virtue Ethics

Enjoying oneself is certainly part of a flourishing human life, and so long as drug use and gambling do not interfere with (or threaten to interfere with) those ingredients of a good life, there is nothing wrong with such activities and perhaps some reason to engage in them. If temperance in food and drink and other pleasures is a virtue and intemperance a vice, then the virtuous agent will avoid engaging in any form of drug use or gambling that would express intemperance. So if we accept a virtue account of right action according to which an action is morally right or permissible if and only if a virtuous agent (one who has the virtues) may choose to engage in the action, then whether or not the use of some particular drug on some occasion is right will depend on facts about the exercise of temperance by that person on that occasion. The virtue ethics approach to the morality of gambling is defended by Collins, who argues that gambling can fit into a virtuous,

flourishing life and thus (in some forms, on some occasions, and for some people) it is morally permissible. However, Collins's appeal to virtue ethics in defense of gambling is challenged by David B. Fletcher in "Gambling and Character," the final selection of the chapter. As the title of his paper suggests, Fletcher argues that the likely negative effects of gambling on character provide a basis for arguing that this practice is morally objectionable.

NOTES

1. In 2009, the U.S. Federal government issued new guidelines stating that patients and suppliers in states that legally allow the use of marijuana for medical purposes are not to be prosecuted under federal law for using or supplying this drug. As of 2009, fourteen states allow the medical use of marijuana.

2. There are also moral and legal issues about performance-enhancing drugs (anabolic and androgenetic steroids) as well as inhalants and solvents that are often used for nonmedical purposes.

3. This holds for an *act* consequentialist. A *rule* consequentialist, as explained in chap. 1, sec. 2A, will compare the likely effects of a rule prohibiting the use of certain drugs with the likely effects of not having a prohibitive rule as a basis for arriving at a conclusion about the morality of particular acts of drug use.

DAVID BOAZ

Drug-Free America or Free America?

Boaz favors the legalization of marijuana, heroin, and cocaine, arguing that individuals have a natural right to live as they choose so long as they do not violate the equal rights of others. Against those who argue that the right to take drugs is justifiably restricted in order to protect society from certain social harms, Boaz argues that drug prohibition has been a failure, creating greater social ills than would result from legalization.

Recommended Reading: rights-based moral theory, chap. 1, sec. 2D.

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INTRODUCTION: THE DRUG PROBLEM

Human beings have used mind-altering substances throughout recorded history. Why? . . . Perhaps because we fail to love one another as we should. Perhaps because of the social pressure for success. Perhaps because—and this is what really irks the prohibitionists—we enjoy drugs' mind-altering effects.

Though the reasons for drug use are numerous, the governmental response has been singular: almost as long as humans have used drugs, governments have tried to stop them. In the sixteenth century the Egyptian government banned coffee. In the seventeenth century the Czar of Russia and the Sultan of the Ottoman Empire executed tobacco smokers. In the eighteenth century England tried to halt gin consumption and China penalized opium sellers with strangulation.

The drug prohibition experiment most familiar to Americans is the prohibition of alcohol in the 1920s. The period has become notorious for the widespread illegal consumption of alcohol and the resultant crime. Movies such as *Some Like It Hot* typify the popular legend of the era. The failure of Prohibition, however, is not just legendary. Consumption of alcohol probably fell slightly at the beginning of Prohibition but then rose steadily throughout the period. Alcohol became more potent, and there were reportedly more illegal speakeasies than there had been legal saloons. More serious for nondrinkers, the per capita murder rate and the assault-by-firearm rate both rose throughout Prohibition.

Most of the same phenomena are occurring with today's prohibition of marijuana, cocaine, and heroin. Use of these drugs has risen and fallen during the seventy-seven years since Congress passed the Harrison Narcotics Act [designed to curb opium trafficking], with little relationship to the level of enforcement. In the past decade, the decade of the "War on Drugs," use of these drugs seems to have declined, but no faster than the decline in the use of the legal drugs, alcohol and tobacco. In the 1980s Americans became more health- and fitness-conscious, and use

of all drugs seems to have correspondingly decreased. Drug prohibition, however, has not stopped thirty million people from trying cocaine and sixty million people from trying marijuana. Prohibition also has not stopped the number of heroin users from increasing by one hundred fifty percent and the number of cocaine users from increasing by ten thousand percent. Moreover, prohibition has not kept drugs out of the hands of children: in 1988 fifty-four percent of high school seniors admitted to having tried illicit drugs; eighty-eight percent said it was fairly easy or very easy to obtain marijuana; and fifty-four percent said the same about cocaine.

Although drug prohibition has not curtailed drug use, it has severely limited some fundamental American liberties. Programs such as "Zero Tolerance," which advocates seizing a car or boat on the mere allegation of a law enforcement official that the vehicle contains drugs, ignore the constitutional principle that a person is innocent until proven guilty.

In attempting to fashion a solution to "the drug problem," one first needs to define the problem society is trying to solve. If the problem is the age-old human instinct to use mind-altering substances, then the solution might be God, or evolution, or stronger families, or Alcoholics Anonymous. History suggests, however, that the solution is unlikely to be found in the halls of Congress. If, on the other hand, the problem is the soaring murder rate, the destruction of inner-city communities, the creation of a criminal subculture, and the fear millions of Americans experience on their own streets, then a solution may well be found in Congress—not in the creation of laws but in their repeal.

This Article proposes that the repeal of certain laws will force individuals to take responsibility for their actions; the repeal of other laws will provide individuals the right to make important decisions in their lives free from outside interference. Together these changes will create the society in which drugs can, and must, be legalized. Legalization of drugs, in turn, will end the need for the government to make the intrusions into our fundamental rights as it does so often in its War on Drugs.

THE FUTILITY OF PROHIBITION

A. The War on Drugs

Prohibition of drugs is not the solution to the drug problem. [Since 1981] the United States has waged a "War on Drugs." The goals of this War were simple: prohibit the cultivation or manufacture of drugs, prohibit the import of drugs, and prohibit the use of drugs. As the aforementioned statistics demonstrate, the War has not achieved its goals.

Prohibitionists, however, sometimes claim that the United States has not yet "really fought a drug war." The prohibitionists argue that a "true drug war" would sharply lower drug use. They feel that the government has not fully committed itself to winning this battle. One need only look at the War on Drugs record, however, to see the commitment.

- Congress passed stricter anti-drug laws in 1984, 1986, and 1988. Congress and state legislators steadily increased penalties for drug law violations, mandating jail time even for first offenders, imposing large civil fines, seizing property, denying federal benefits to drug law violators, and evicting tenants from public housing.
- Federal drug war outlays tripled between 1980 and 1988, and the federal government spent more than \$20 billion on anti-drug activities during the decade. Adjusted for inflation, the federal government spends ten times as much on drug-law enforcement every year as it spent on Prohibition enforcement throughout the Roaring Twenties.
- Police officers made more than one million drug law arrests in 1989, more than two-thirds of them for drug possession.
- The number of drug busts tripled during the 1980s, and the number of convictions doubled.
- America's prison population more than doubled between 1981 and 1990, from 344,283 to 755,425. Prisons in thirty-five states and the District of Columbia are under court orders because of overcrowding or poor conditions. An increasing percentage of these prisoners are in jail for nonviolent drug law violations.

- The armed services, Coast Guard, and Civil Air Patrol became more active in the drug fight, providing search and pursuit planes, helicopters, ocean interdiction, and radar. Defense Department spending on the War on Drugs rose from \$200 million in 1988 to \$800 million in 1990.
- The Central Intelligence Agency (CIA) and National Security Agency began using spy satellites and communications listening technology as part of the drug war. The CIA also designed a special Counter Narcotics Center.
- The federal government forced drug testing upon public employees and required contractors to establish "drug-free" workplaces. Drug testing has also expanded among private companies.
- Seizures of cocaine rose from 2,000 kilograms in 1981 to 57,000 kilograms in 1988.

Despite this enormous effort, drugs are more readily available than ever before. The War on Drugs has failed to achieve its primary goal of diminishing the availability and use of drugs.

B. Prohibition Creates Financial Incentives

One reason for the failure of the War on Drugs is that it ignores the fact that prohibition sets up tremendous financial incentives for drug dealers to supply the demand. Prohibition, at least initially, reduces the supply of the prohibited substance and thus raises the price. In addition, a large risk premium is added onto the price. One has to pay a painter more to paint the Golden Gate Bridge than to paint a house because of the added danger. Similarly, drug dealers demand more money to sell cocaine than to sell alcohol. Those who are willing to accept the risk of arrest or murder will be handsomely—sometimes unbelievably—rewarded.

Drug dealers, therefore, whatever one may think of them morally, are actually profit-seeking entrepreneurs. Drug researcher James Ostrowski points out that "[t]he public has the false impression that drug enforcers are highly innovative, continually devising new schemes to catch drug dealers. Actually, the reverse

is true. The dealers, like successful businessmen, are usually one step ahead of the 'competition.'"¹

New examples of the drug dealers' entrepreneurial skills appear every day. For example, partly because the Supreme Court upheld surveillance flights over private property to look for marijuana fields, marijuana growers have been moving indoors and underground. The Drug Enforcement Administration seized about 130 indoor marijuana gardens in California in 1989; by November the figure for 1990 was 259.

Overseas exporters have also been showing off their entrepreneurial skills. Some have been sending drugs into the United States in the luggage of children traveling alone, on the assumption that authorities will not suspect children and will go easy on them if they are caught. Others have concealed drugs in anchovy cans, bean-sprout washing machines, fuel tanks, and T-shirts. At least one man surgically implanted a pound of cocaine in his thighs. Some smugglers swallow drugs before getting on international flights. Professor Ethan Nadelmann has explained the spread of overseas exporters as the "push-down/pop-up factor": push down drug production in one country, and it will pop up in another.² For example, Nadelmann notes that "Colombian marijuana growers rapidly expanded production following successful eradication efforts in Mexico during the mid-1970s. Today, Mexican growers are rapidly taking advantage of recent Colombian government successes in eradicating marijuana."

Prohibition of drugs creates tremendous profit incentives. In turn, the profit incentives induce drug manufacturers and dealers to creatively stay one step ahead of the drug enforcement officials. The profit incentives show the futility of eradication, interdiction, and enforcement and make one question whether prohibition will ever be successful. . . .

INDIVIDUAL RIGHTS

Many of the drug enforcement ideas the prohibitionists suggest trample upon numerous constitutional and natural rights. In any discussion of government policies, it is necessary to examine the effect on natural

rights for one simple reason: Individuals have rights that governments may not violate. In the Declaration of Independence, Thomas Jefferson defined these rights as life, liberty, and the pursuit of happiness. I argue that these inviolable rights can actually be classified as one fundamental right: Individuals have the right to live their lives in any way they choose so long as they do not violate the equal rights of others. To put this idea in the drug context, what right could be more basic, more inherent in human nature, than the right to choose what substances to put in one's own body? Whether it is alcohol, tobacco, laetrile, AZT, saturated fat, or cocaine, this is a decision that the individual should make, not the government. This point seems so obvious to me that it is, to borrow Jefferson's words, self-evident.

The prohibitionists, however, fail to recognize this fundamental freedom. They advance several arguments in an effort to rebut the presumption in favor of liberty. First, they argue, drug users are responsible for the violence of the drug trade and the resulting damage to innocent people. The erstwhile Drug Czar, William Bennett, when asked how his nicotine addiction differed from a drug addiction, responded, "I didn't do any drive-by shootings."³ Similarly former First Lady Nancy Reagan said, "The casual user may think when he takes a line of cocaine or smokes a joint in the privacy of his nice condo, listening to his expensive stereo, that he's somehow not bothering anyone. But there is a trail of death and destruction that leads directly to his door. I'm saying that if you're a casual drug user, you are an accomplice to murder."⁴

The comments of both Mr. Bennett and Mrs. Reagan, however, display a remarkable ignorance about the illegal-drug business. Drug use does not cause violence. Alcohol did not cause the violence of the 1920s, Prohibition did. Similarly drugs do not cause today's soaring murder rates, drug prohibition does. The chain of events is obvious: drug laws reduce the supply and raise the price of drugs. The high price causes addicts to commit crimes to pay for a habit that would be easily affordable if obtaining drugs was legal. The illegality of the business means that business disputes—between customers and suppliers or between rival suppliers—can be settled only through violence, not through the courts. The

violence of the business then draws in those who have a propensity—or what economists call a comparative advantage—for violence. When Congress repealed Prohibition, the violence went out of the liquor business. Similarly, when Congress repeals drug prohibition, the heroin and cocaine trade will cease to be violent. As columnist Stephen Chapman put it, “the real accomplices to murder” are those responsible for the laws that make the drug business violent.⁵

Another prohibitionist argument against the right to take drugs is that drug use affects others, such as automobile accident victims and crack babies. With regard to the former, certainly good reasons exist to strictly penalize driving (as well as flying or operating machinery) while under the influence of drugs. It hardly seems appropriate, however, to penalize those who use drugs safely in an attempt to stop the unsafe usage. As for harm to babies, this is a heart-rending problem (though perhaps not as large a problem as is sometimes believed). Again, however, it seems unnecessary and unfair to ban a recreational drug just because it should not be used during pregnancy. Moreover, drug-affected babies have one point in common with driving under the influence: misuse of legal drugs (alcohol, tobacco, codeine, caffeine) as well as illegal drugs, contribute to both problems. Thus, if society wants to ban cocaine and marijuana because of these drugs’ potential for misuse, society should logically also ban alcohol, tobacco, and similar legal drugs.

The question of an individual right to use drugs comes down to this: If the government can tell us what we can put into our own bodies, what can it not tell us? What limits on government action are there? We would do well to remember Jefferson’s advice: “Was the government to prescribe to us our medicine and diet, our bodies would be in such keeping as our souls are now.”⁶

THE SOLUTION: RE-ESTABLISH INDIVIDUAL RESPONSIBILITY

For the past several decades a flight from individual responsibility has taken place in the United States.

Intellectuals, often government funded, have concocted a whole array of explanations as to why nothing that happens to us is our own fault. These intellectuals tell us that the poor are not responsible for their poverty, the fat are not responsible for their overeating, the alcoholic are not responsible for their drinking. Any attempt to suggest that people are sometimes responsible for their own failures is denounced as “blaming the victim.”

These nonresponsibility attitudes are particularly common in discussions of alcohol, tobacco, and other drugs. Development of these attitudes probably began in the 1930s with the formulation of the classic disease theory of alcoholism. The disease theory holds that alcoholism is a disease that the alcoholic cannot control. People have found it easy to apply the theory of addiction to tobacco, cocaine, heroin, even marijuana. In each case, according to the theory, people get “hooked” and simply cannot control their use. Author Herbert Fingarette, however, states that “no leading research authorities accept the classic disease concept [for alcoholism].”⁷ Many scientists, though, believe it is appropriate to mislead the public about the nature of alcoholism in order to induce what they see as the right behavior with regard to alcohol.

In the popular press the addiction theory has spread rapidly. Popular magazines declare everything from sex to shopping to video games an addiction that the addicted person has no power to control. As William Wilbanks said, the phrase “I can’t help myself” has become the all-purpose excuse of our time.⁸

The addiction theory has also gained prominence in discussions of illegal drugs. Both prohibitionist and legalizers tend to be enamored of the classic notion of addiction. Prohibitionists say that because people cannot help themselves with respect to addictive drugs, society must threaten them with criminal sanctions to protect them from their own failings. Legalizers offer instead a “medical model”: treat drug use as a disease, not a crime. The legalizers urge that the billions of dollars currently spent on drug enforcement be transferred to treatment programs so that government can supply “treatment on demand” for drug addicts.

Despite the popular affection for the addiction theory, numerous commentators denounce the theory. For example, addiction researcher Stanton Peele deplores the effects of telling people that addictive behavior is uncontrollable:

[O]ne of the best antidotes to addiction is to teach children responsibility and respect for others and to insist on ethical standards for everyone—children, adults, addicts. Crosscultural data indicate, for instance, that when an experience is defined as uncontrollable, many people experience such loss of control and use it to justify their transgressions against society. For example, studies find that the “uncontrollable” consequences of alcohol consumption vary from one society to another, depending upon cultural expectations.⁹

... The United States requires ... more reforms—in addition to drug legalization—to create the kind of society in which people accept responsibility for their actions. . . .

Americans might take ... steps to restore traditional notions of individual responsibility. Laws regarding drugs should only punish persons who violate the rights of others; private actions should go unpunished. Thus, laws should strictly punish those who drive while under the influence of alcohol or other drugs. Intoxication, moreover, should not be a legal defense against charges of theft, violence, or other rights violations, nor should a claim of “shopping addiction” excuse people from having to pay their debts. Physicians, intellectuals, and religious leaders should recognize that the denial of responsibility has gone too far, and they should begin to stress the moral value of individual responsibility, the self-respect such responsibility brings, and the utilitarian benefits of living in a society in which all persons are held responsible for the consequences of their actions.

CONCLUSION

Society cannot really make war on drugs, which are just chemical substances. Society can only wage wars against people, in this case people who use

and sell drugs. Before America continues a war that has cost many billions of dollars and many thousands of lives—more than eight thousand lives per year even before the skyrocketing murder rates of the past few years—Americans should be sure that the benefits exceed the costs. Remarkably, all of the high-ranking officers in the Reagan administration’s drug war reported in 1988 that they knew of no studies showing that the benefits of prohibition exceeded the costs.

There is a good reason for the lack of such a study. Prohibition is futile. We cannot win the War on Drugs. We cannot even keep drugs out of our prisons. Thus, we could turn the United States into a police state, and we still would not win the War on Drugs. The costs of prohibition, however, are very real: tens of billions of dollars a year, corruption of law enforcement officials, civil liberties abuses, the destruction of inner-city communities, black-market murders, murders incident to street crime by addicts seeking to pay for their habit, and the growing sense that our major cities are places of uncontrollable violence.

Hundreds, perhaps thousands, of years of history teach us that we will never make our society drug-free. In the futile attempt to do so, however, we may well make our society unfree.

NOTES

1. Ostrowski, *Thinking About Drug Legalization*, 121 *Pol’y Analysis*, May 25, 1989, at 34. . . .
2. Nadelmann, *The Case for Legalization*, 92 *Pub. Interest* 3, 9 (1988). . . .
3. Isikoff, *Bennett Rebuts Drug Legalization Ideas*, *Washington Post*, Dec. 12, 1989, at A10, col. 1.
4. Chapman, *Nancy Reagan and the Real Villains in the Drug War*, *Chicago Tribune*, Mar. 6, 1988, § 4, at 3, col. 1. . . .
5. Chapman, *supra* note 4.
6. T. Jefferson, *Notes on Virginia*, in *The Life and Selected Writings of Thomas Jefferson* 187, 275 (1944).
7. H. Fingarette, *Heavy Drinking* at 3 (1988) (emphasis in original). . . .
8. Wilbanks, *The New Obscenity*, 54 *Vital Speeches of the Day* 658, 658–59 (1988).
9. See generally S. Peele, *Control Yourself*, Reason, Feb. 1990, at 25.

READING QUESTIONS

1. What reasons does Boaz give for thinking that prohibition of drugs like cocaine and marijuana has restricted liberty?
2. What are the three goals of the war on drugs? How has the government shown its commitment to fighting this war?
3. Why has the war on drugs failed according to Boaz? How, specifically, has the prohibition of certain drugs created financial incentives for dealers of illegal drugs?
4. In what ways does prohibition violate our natural and constitutional rights?
5. Explain Boaz's reasons for why drug use does not cause violence in the way suggested by supporters of prohibition and the war on drugs.
6. How does Boaz incorporate the notion of increased responsibility into a possible solution to the problems caused by the sale and use of illegal drugs?

DISCUSSION QUESTIONS

1. Boaz denies the claim that the benefits of the war on drugs has outweighed the costs. Is he right to deny this claim? If so, can you think of any changes to the way the war on drugs is waged that might make it more beneficial?
2. Should drug users be blamed for any of the violence that occurs as a result of their drug use? Try to come up with some examples of cases in which violence is caused by drug users that are either under the influence of a particular drug or otherwise as a result of their involvement with drugs.

PETER DE MARNEFFE

Decriminalize, Don't Legalize

De Marneffe defends the decriminalization of drugs but argues that this position is consistent with being against the legalization of such drugs. He bases his case for decriminalization largely on an appeal to respect for the autonomy of individuals, while he bases his case for the legal prohibition of the manufacture and sale of large quantities of drugs on the claim that legalization would likely dramatically increase the incidence of drug abuse, thus bringing about an increase in harm to drug users and society generally. In defending his view, de Marneffe argues that drug prohibition does not violate individual rights, that it does not

represent an unacceptable form of paternalism, and that it does not imply that alcohol, fatty foods, or tobacco ought also to be prohibited.

Recommended Reading: Section 3 of this chapter's introduction to liberty-limiting principles. Also relevant are Kantian moral theory, chap. 1, sec. 2D, and consequentialism, chap. 1, sec. 2A.

Drugs should be decriminalized, but not legalized. There should be no criminal penalties for using drugs or for possessing small quantities for personal use, but there should be criminal penalties for the manufacture and sale of drugs and for the possession of large quantities. Isn't this inconsistent? If it is legal to use drugs, shouldn't it also be legal to make and sell them? Here I explain why not.

First, some terminology. Drug prohibition refers to criminal penalties for the manufacture, sale, and possession of large quantities of drugs. Its opposite is drug legalization. Drug criminalization refers to criminal penalties for using drugs and for possessing small quantities of drugs. Its opposite is drug decriminalization. Here I defend drug prohibition, not drug criminalization.

THE BASIC ARGUMENT

The basic argument for drug prohibition is that if drugs are legalized, there will be more drug abuse. People use drugs because they enjoy them; they find them fun and relaxing. If it is easier, safer, and less expensive to do something fun and relaxing, more people will do it and do it more often. If drugs are legalized, they will be easier to get, safer to use, and less expensive to buy. They will be easier to get because they will be sold at the local drug or liquor store. They will be safer to use because they will be sold in standard doses and will come with safety precautions. They will be less expensive because the supply will increase and the risk of making, transporting, and selling drugs will decrease. So if drugs are legalized, there will be more drug use and consequently more drug abuse.

Evidence comes from the study of drinking. Alcohol abuse declines with alcohol use, which declines with decreased availability and higher prices (Cook 2007). For example, alcohol abuse declined substantially during the early years of Prohibition, when alcohol became less easily available and more expensive (Miron and Zwiebel 1991). Evidence for this is that during Prohibition deaths from cirrhosis of the liver declined by about 50%, and admissions to state hospitals for alcoholic psychosis declined substantially as well (Warburton 1932). The study of alcohol regulation since Prohibition further supports the conclusion that alcohol abuse declines with an increase in price—resulting from excise taxes, for example—and that alcohol abuse also declines with availability—when, for example, the law restricts the times when alcohol can be legally sold and when it prohibits those under twenty-one from purchasing alcohol (Cook 2007). Another commonly cited piece of evidence that drug use declines with availability is that heroin use was much higher among army personnel in Vietnam where it was easily available than it was among veterans who returned to the U.S., where it was much less available (Robins, Davis, and Goodwin 1974). Another piece of evidence is that the percentage of physicians who use psychoactive drugs is much higher than the general population, which can be attributed to the fact that drugs are more available to doctors (Vaillant, Brighton, and McArthur 1970).

Critics of drug prohibition commonly argue that it does no good because there is still so much drug use even though drugs are illegal. This is a bad argument. It is true there is a lot of drug use in the U.S., but this is no reason to conclude that drug laws do no good or that drugs should be legalized. There is also a lot of theft in the U.S. and it doesn't follow that laws against larceny do no good or that theft should

be decriminalized. This is because, although many things are now stolen, it is likely that many more things would be stolen if theft were decriminalized.

In fact almost everyone who studies the question agrees that drug abuse will probably increase if drugs are legalized. Where there is disagreement is on how much it will increase. Those who defend drug legalization believe that although drug abuse will probably increase with legalization, it will not increase by very much, and a moderate increase is justified by the benefits of drug legalization. What are these benefits? If drugs are legalized, the argument goes, there will no longer be a black market for drugs, and so the associated violence and police corruption will cease. There will be fewer drug overdoses because drugs will be safer, because they will be sold in standard, regulated doses. Drugs will also be cheaper, so drug addicts will not need to steal to support their habits. Finally, if drugs are legalized the government can tax drugs the way it taxes alcohol and tobacco and thereby raise needed revenue. These benefits are so great, the defender of drug legalization maintains, that they justify the cost of a moderate increase in drug abuse that will probably accompany drug legalization.

The defender of drug prohibition has a different view. He believes that if drugs are legalized there will be a dramatic increase in drug abuse. He then argues that the risks of violence to innocent bystanders caused by the illegal drug trade can be reduced to acceptable levels by adequate community policing; that police corruption can be adequately controlled by proper police training, monitoring, and compensation; that there will not be significantly fewer overdoses with legalization because drug abuse will increase dramatically as a result and because heavy drug use is inherently dangerous and often reckless; that although drugs will be cheaper with legalization, there will be more drug addicts as a result, some of whom will stop working to concentrate on drug use, and so who will steal to support their habits; and that the social cost of a dramatic increase in drug abuse is much greater than anything that could be paid for by taxing legalized drugs. The probable costs of legalizing drugs therefore outweigh any probable benefit, the argument for prohibition goes, and the costs of prohibiting drugs can be reduced by wise policies of

enforcement, by enough so that drug prohibition can be justified by its benefit in reducing drug abuse.

Who is right? No one is justified in feeling certain, but here I assume that the defenders of prohibition are right, partly because this is what I believe, but mostly because I want to explain how, on this assumption, it makes sense to support drug prohibition and not drug criminalization. Some people think that drug criminalization is wrong because it violates our rights to liberty. From this they naturally conclude that drugs should be legalized. This, however, is a non sequitur, because it makes perfect sense to hold that although drug criminalization violates our rights, drug prohibition does not, as I now explain.

The basic argument for drug prohibition is that drug abuse will increase substantially if drugs are legalized. By *drug abuse* I mean drug use that harms the user or others or that creates a significant risk of harm. The term "drug abuse" is sometimes used more broadly than this, to include the recreational use of any illegal drug. Since the drug is illegal, its use is abuse. This characterization is misleading, however, because recreational drug use, in itself, is not harmful, and does not always create a significant risk of harm. Usually nothing bad occurs when someone smokes marijuana, or snorts cocaine, or ingests a tablet of LSD. Only very rarely is the user harmed by a moderate dose of these drugs, and others are harmed even less often. Heavy drug use, in contrast, can have lasting negative effects on a person's life and on the lives of those who depend on him. If, for example, a young person uses heroin heavily, he is less likely to do his school work and finish high school. If a parent uses heroin heavily, he is more likely to neglect his children, and less likely to take care of his health and to meet other important obligations, such as showing up for work. When a child's parents neglect him due to heavy drug use or when a young person neglects his own education and career, this can have lasting bad consequences on his life. So it makes sense to want there to be less drug abuse of this kind.

It is natural to think that if this argument justifies drug prohibition, it also justifies drug criminalization. After all, if drug use is decriminalized, surely the amount of drug abuse will also increase. Isn't it inconsistent, then, to hold that drugs should be

prohibited but not criminalized? No, because there are important differences between prohibition and criminalization.

One important difference is that whereas drug criminalization prohibits individuals from having certain experiences that are enjoyable and illuminating, drug prohibition does not do this. Drug prohibition is similar to alcohol prohibition of the 1920s, which prohibited the manufacture, sale, and transportation of alcohol for commercial purposes, but did not prohibit drinking or the making of alcoholic beverages for personal use. Likewise, drug prohibition prohibits the manufacture, sale and possession of large quantities, but it does not prohibit drug use or making drugs for personal use. Drug criminalization, in contrast, does prohibit this. It thus prohibits people from using their own minds and their own bodies for certain kinds of pleasure and adventure. It prohibits people from regulating their moods in certain ways. This seems overly intrusive. As adults we are entitled to determine what happens in our minds and to our bodies, unless our decisions pose a serious risk of harm to others or to ourselves. Because drug use in itself does not pose a serious risk of harm to anyone, respect for persons, as independent beings who are properly sovereign over their own minds and bodies, seems incompatible with drug criminalization.

Drug prohibition, in contrast, is compatible with respect for persons. Drug prohibition makes it illegal to operate a certain kind of business; but it does not prohibit anyone from experimenting with drugs or from regulating their moods in the ways that illegal drugs provide. It does not deprive anyone of control over their own minds and bodies. Where will people get drugs if others are not permitted to manufacture and sell them? In some cases they can safely make them on their own. In other cases they can receive them as a gift from friends who are good at chemistry, and, of course, people can still buy drugs illegally even if they are prohibited. What's the point of drug prohibition if people still buy drugs anyway? Well, what's the point of murder laws if people are still murdered? Presumably murder laws reduce the number of murders by enough to justify the costs of enforcement and the risks of wrongful conviction. If drug prohibition significantly reduces the amount

of drugs that are made and sold and thereby reduces drug abuse, it can likewise be justified as *reducing* drug abuse even if it does not *eliminate* it.

To the self-sovereignty argument against criminalization, we should add that adults have important interests in the freedom necessary to lead a life that seems worthwhile to them, a life that makes sense to them as the right sort of life for them to lead, provided that in doing so they do not seriously harm others or themselves or pose a serious risk of harm. Each of us has one earthly life to lead, and it is important that we determine how we lead this life, what experiences we have, what goals we pursue, what kinds of relationships we have, and what kinds of people we become. For some, drug use is an important part of the kind of life that makes most sense to them. This is true not only of those who use drugs in religious ceremonies. It is also true of those who orient their lives around certain kinds of social and aesthetic experiences. "Dead heads" used to orient their lives around attending Grateful Dead concerts, smoking marijuana, and sharing this experience with others. Assuming the use of marijuana does not pose a serious risk of harm to the user or others, the fact that marijuana played a central role in this kind of life is a strong argument against criminalizing its use.

It is not, however, a strong argument for *legalizing* marijuana. After all, a person who wants to orient his life in this way can do this perfectly well even if it is illegal to manufacture and sell marijuana for profit. He can grow his own or share with friends. No doubt some will want to live the life of a drug dealer; this is the kind of life they want to lead. What is distinctive, however, about the life of a drug dealer is a function of its illegality. Hence this career aspiration does not provide a compelling argument for legalization. If anything, it is a reason to prohibit drugs, because if drugs are legalized, those who value dealing drugs as part of an outlaw lifestyle will no longer have the opportunity to lead an outlaw life in this way. Nor is the loss of the opportunity to sell drugs legally a serious loss, because under drug prohibition similar job opportunities will continue to exist, such as the opportunity to legally sell pharmaceuticals and alcoholic beverages. (If you are tempted to argue that the opportunity to sell alcoholic beverages and

pharmaceuticals is not in fact available to most of those who sell drugs now, you should understand that this counts in favor of drug prohibition, not legalization, since only prohibition offers this kind of business opportunity to those who otherwise have little chance of entering the corporate world.)

Drug criminalization threatens personal autonomy in a way that drug prohibition does not. This is the main point so far. The claim, however, that drug criminalization threatens autonomy might be jarring. Aren't some drugs highly addictive, and isn't drug addiction inconsistent with autonomy? Doesn't concern for autonomy therefore warrant the criminalization of drugs? No. For one thing, laws that criminalize drugs deprive people of the legal discretion to use drugs, whether for good reasons or bad, and so deprive them of a kind of personal authority, which is a form of personal autonomy. For another, only a small proportion of those who use drugs are addicts. This is true even of those who use heroin, cocaine, and methamphetamine (Goode 1999). For this reason, respect for the autonomy of the vast majority of drug users provides a strong reason against criminalization. Furthermore, the claim that drug addiction is incompatible with autonomy is based on a misunderstanding of what addiction is. In the imagination of some philosophers, an addict is like a zombie who has lost the capacity to choose or to act in accordance with his own judgment of what is best. This is not an accurate picture of any real drug addict. We call people drug addicts for one or more of the following reasons. (1) They use a drug to relieve a craving. (2) They use a drug even though they obviously shouldn't, because of the harm their drug use is likely to do them or others. (3) Although they believe they should use this drug at the moment they choose to use it, at other times when their judgment is more reliable and less distorted by temptation, they sincerely believe they should not use this drug any more. Even when all these things are true of a person, it is an error to characterize him as a zombie who has lost his power of choice. The addict is still someone who chooses, and chooses on the basis of his own judgment of what is best, just like the rest of us. If the drug addict were someone whose real self has decided not to use drugs, but who is then attacked

by an alien desire that takes over his body and for him to use drugs against his will, and if a person is less likely to be attacked in this way if drugs are criminalized, there might be a sense in which drug criminalization promotes the autonomy of addicts. But drug addiction is nothing like this. The addict's desire to use drugs is just as much a part of his real self as any desire he might have to stop. It's not an alien desire that forces him to do something against his will. It arises from his own sincere belief that the pleasure or relief of using this drug is a good reason to use it. So it is a mistake to suppose that drug use, even heavy drug use, is not autonomous.

Autonomy means different things and one thing it means is independence. In this sense a person might be less autonomous due to drug abuse. If a person drops out of high school due to drug abuse, he may be less intellectually and emotionally mature as a result and less capable of supporting himself. A person who abuses drugs may also be less capable of holding a job. So a person who abuses drugs may be less intellectually, emotionally, and financially independent as a result. If drug laws reduce this kind of drug abuse there is therefore a sense in which they promote autonomy. This is not because drug abuse itself is not autonomous or because addicts are zombies who have lost the capacity for choice. It is because drug abuse is often infantilizing.

In evaluating drug laws, we must therefore consider whether the way in which they promote autonomy justifies the way in which they limit it. Because most drug users are not addicts and because even addicts use drugs as a matter of choice, respect for autonomy seems incompatible with a blanket prohibition on drug use. But drug prohibition does not threaten personal autonomy in the same way. To this we should add that those at risk of being harmed by drug abuse have a stronger complaint against those who manufacture and sell drugs than they do against those who use them privately or make them for their own use. When a person grows marijuana and smokes it himself or with friends, he does little to significantly increase anyone else's risk of harm. In contrast, when a businessman sets up a lab to make heroin and then distributes this product to retailers who sell it to a willing buyer, this businessman increases others' risk

of harm significantly. Others therefore have a stronger complaint against his activities. Because those at risk of harm from drug abuse have a stronger complaint against drug manufacturers and dealers than they have against private users, and because there are weighty reasons of personal autonomy against drug criminalization, but not against drug prohibition, it makes sense to make a distinction between these policies, and to support one and not the other.

DOES DRUG PROHIBITION VIOLATE INDIVIDUAL RIGHTS?

Even so, prohibition might violate our rights. I have suggested that if the benefits of prohibition outweigh the costs, then this policy is justifiable. But a policy can violate a person's rights even if its aggregated benefits outweigh its aggregated costs. "Each person," writes John Rawls, "possesses an inviolability founded on justice that even the welfare of society as a whole cannot override" (Rawls 1971, 3). Utilitarianism, which Rawls rejects, directs the government to adopt whatever policies will result in the most happiness, summed over individuals, and this principle may warrant policies that violate our moral rights. Because it is wrong for a government to sacrifice the individual in this way, a defender of drug prohibition must therefore explain why this policy violates no one's rights.

Part of the explanation has already been given: unlike drug criminalization, drug prohibition does not pose a serious threat to personal autonomy. Recognizing the value of autonomy, however, is not all there is to taking rights seriously. Taking rights seriously also involves commitment to *individualism*, according to which we may not evaluate government policies solely by subtracting aggregated costs from aggregated benefits, but must also make one-to-one comparisons of the burdens that individuals bear under these policies. In this way we take seriously the separateness of persons. It is possible, although unlikely, that a system of slavery could be justified by utilitarian reasoning, because, although a few are

harmed by this system, so many benefit from it. To understand what would be wrong with this, we must make one-to-one comparisons and recognize that the worst burden imposed on the individual slave is substantially worse than the worst burden anyone would bear if this system were rejected or abolished.

Sometimes, however, it is permissible for the government to limit the liberty of the few for the benefit of the many. It is permissible, for example, for the government to imprison some people to protect society as a whole. To apply individualism to the assessment of government policies, we must therefore find a way of evaluating whether a government policy objectionably sacrifices an individual for the benefit of society. I offer the following hypothesis: the government *objectionably* sacrifices a person in limiting her liberty if and only if it violates the *burdens principle*. This principle is that the government may not limit a person's liberty in ways that impose a burden on her that is substantially worse than the worst burden anyone would bear in the absence of this policy. When the government violates this principle in adopting policies for the good of society, it objectionably sacrifices someone for the benefit of society; it fails to respect her inviolability; it violates her rights. To illustrate, even if a system of slavery maximizes economic productivity, it imposes a burden on the individual slave that is substantially worse than the worst burden anyone would bear if the government were not to maintain this system. So the government violates the burdens principle in maintaining this system, and consequently violates the rights of those enslaved.

Does the burdens principle prove too much? Consider the following objection. Surely it is worse to be in jail than to have something stolen from a store one owns, works at, or shops at. Don't laws prohibiting shoplifting therefore violate the burdens principle? Doesn't this show that this principle is invalid? This challenge can be addressed once we understand how burdens are to be compared. The relative weight of burdens is to be assessed by the relative weight of reasons that individuals have to want or want not to be in the relevant situations. The reasons there are for us to want to be free to take whatever we want from a store without paying are not very weighty.

Consequently, our reasons are not very weighty to want to avoid a situation in which we must either pay for what we take or risk criminal penalties. On the other hand, there are good reasons for each of us to want the government to enforce a rule prohibiting shoplifting, grounded partly in the fact that without this policy the availability of retail goods will decline sharply over time. A law that prohibits shoplifting therefore does not violate the burdens principle, provided this law is administered fairly, harsh penalties are avoided, and necessity is accepted as an excuse.

I now assume that the burdens principle provides the correct basis for assessing whether the government in limiting a person's liberty objectionably sacrifices her for the benefit of society as a whole. If so, a defender of drug prohibition should be able to explain why this policy does not violate this principle. Suppose, then, that if drugs are legalized, drug abuse by young people and parents will increase dramatically. Suppose, too, that drug abuse by young people commonly damages their future prospects, because it results in a failure to perform important tasks, such as finishing school, and to develop important habits, such as being a reliable employee, and that these failures early on have a lasting negative impact on a person's life. Suppose, too, that drug abuse by parents commonly damages the future prospects of their children because it results in serious forms of child neglect. On these assumptions, there are good reasons for some people to prefer their situations when drugs are less easily available. Some people will therefore bear a significant burden as a result of drug legalization: those who will be at a substantially higher risk of harm from drug abuse if drugs are legalized. These burdens appear to be at least as great as the burden that drug prohibition imposes on businessmen in prohibiting them from manufacturing and selling drugs. The burden on businessmen is equivalent to the choice of not going into the drug business or risking legal penalties. This is not a heavy burden because there are alternative business opportunities under drug prohibition that are similar to those that would exist in the drug trade if drugs were legalized. Hence drug prohibition does not objectionably sacrifice the liberty of businessmen for the benefit of society as a whole, and so does not violate their rights.

If the burdens principle is valid as a constraint on government policies that limit individual liberty, then someone who defends drug prohibition but not drug criminalization must defend one of the following positions: (1) Although drug criminalization violates the burdens principle, drug prohibition does not. (2) Although neither drug criminalization nor drug prohibition violates the burdens principle, drug prohibition can be justified by a cost-benefit analysis whereas drug criminalization cannot. Note here that although the burdens principle imposes an individualistic constraint on the justification of liberty-limiting government policies, it allows a policy to be justified by a cost-benefit analysis provided that this policy does not violate the burdens principle. If the worst burden that a policy imposes on someone is not substantially worse than the worst burden someone would bear in the absence of this policy, then this policy does not violate the burdens principle, and it can be justified provided that its benefits outweigh its costs, however this is properly determined.

Given the important differences between drug criminalization and drug prohibition identified above, it makes sense to argue that whereas drug criminalization violates the burdens principle, drug prohibition does not. But even if drug criminalization does not violate the burdens principle, it makes sense to defend drug prohibition and not drug criminalization. Suppose for the sake of argument that the burden that drug criminalization imposes on drug users, although significant, is not substantially worse than the worst burden someone would bear as the result of drug decriminalization. Perhaps some young people will be at a significantly higher risk of self-destructive drug abuse or drug-induced parental neglect if drugs are decriminalized than they are when drugs are criminalized. Perhaps this burden is comparable to the burden that drug users bear when drugs are criminalized. (Bear in mind that drug criminalization might be justified even if harsh penalties for drug possession are not.) It is still arguable that whereas the costs of criminalization outweigh the benefits, this is not true of drug prohibition. Perhaps the aggregate costs in restricting personal autonomy and in prohibiting a form of adventure and mood control outweigh the aggregate costs of increased risk of drug

abuse that would result from decriminalization, even though the aggregated costs of increased drug abuse that would result from drug legalization outweigh its aggregated costs.

COMMON OBJECTIONS

1. Paternalism

Sometimes the government violates a person's rights even when it does not sacrifice him for the benefit of society as a whole. Sometimes it violates a person's rights when it limits his liberty for his own benefit. A common objection to drug laws is that they are paternalistic: they limit people's liberty for their own good. Because drug prohibition does not prohibit anyone from buying drugs for personal use, it does not limit the liberty of drug users in this way for their own good. Assuming, though, that this policy is effective, it does limit a drug user's opportunity to buy drugs. So if this policy is justified by the assumption that it is bad for some people to have these opportunities, there is arguably a sense in which this policy is paternalistic.

This kind of paternalism, however, is not the kind that defenders of individual liberty have found most objectionable. The most objectionable forms of paternalism are those that satisfy the following description: the policy prohibits a mature adult from doing what he sincerely and consistently believes it is best for him to do; this person is mentally competent and adequately informed about the possible negative consequences; this policy limits an important liberty of this person, such as religious or sexual freedom; this policy limits this liberty by imposing criminal penalties; this policy cannot be justified except as benefitting this person, by deterring him from doing something presumed by others to be unwise. Policies that satisfy this description seem to involve an unjustifiable restriction of personal autonomy. Drug prohibition, however, does not satisfy this description. For one thing, drug prohibition limits the liberty of businessmen for the benefit of others—those who would otherwise be at a higher risk of being harmed by drug

abuse. It does not limit the liberty of businessmen for *their* own good. Furthermore, the primary intended beneficiaries of drug prohibition are young people—those who would otherwise be at a higher risk of self-destructive drug abuse and parental neglect—and not mature adults who enjoy using drugs and so would like to have a legal supply. Moreover, drug prohibition does not prohibit anyone from using drugs. So even granting, what might be questioned, that the freedom to use drugs is an important liberty, like religious and sexual freedom, drug prohibition does not restrict this liberty, since it does not prohibit anyone from using drugs. Finally, drug prohibition does not impose criminal penalties on anyone for drug use. One can therefore agree that any policy that satisfies the above description is objectionably paternalistic, and yet consistently defend drug prohibition, since this policy does not involve this kind of paternalism.

2. Prohibition and Harsh Penalties

Another common objection to drug laws is that it is terrible that so many people are in prison on drug offenses. This is terrible. It is important, however, to distinguish the question of drug prohibition from the question of penalties. It is possible that, although some drugs should be prohibited, our current penalties for drug dealing are too harsh. A defender of prohibition can hold that although there should be penalties of some sort for the manufacture and sale of drugs, the penalties for first offenses should be mild, and should increase only gradually, with stiffer penalties only for repeat offenses. Moreover, a defender of drug prohibition can consistently oppose any penalties for simple drug possession, which are the penalties most strongly protested by critics of U.S. drug laws. Observe, too, that someone who opposes the legalization of all drugs might nonetheless support the legalization of some. For example, someone who supports the prohibition of heroin, cocaine, and methamphetamine might nonetheless consistently support the legalization of marijuana and some hallucinogenic drugs, such as LSD, mescaline, peyote, and MDMA (Ecstasy). This makes sense because some drugs are more harmful than others.

3. Alcohol Prohibition?

Another common objection to drug laws is that it makes no sense to defend drug prohibition and not alcohol prohibition. After all, alcohol abuse is much more harmful than drug abuse, much more highly associated with violence, property crime, accidental injury and death. So if the government is justified in prohibiting drugs, it must also be justified in prohibiting the manufacture and sale of alcohol. Assuming that alcohol prohibition is unjustifiable, drug prohibition must be unjustifiable too.

One possible response is to hold, contrary to popular belief, that alcohol prohibition is justifiable. In fact, general opposition to alcohol prohibition is based on false beliefs about its effects, such as that it does nothing to reduce alcohol abuse and that it necessarily results in a huge increase in crime and corruption (Moore 1989). But it is not necessary to endorse alcohol prohibition in order to defend drug prohibition. One can argue instead that, although drinking is more harmful than drug use, the costs of now instituting alcohol prohibition would outweigh the benefits, whereas this is not true of continuing the policy of drug prohibition. A policy that reduces the availability of a socially stigmatized drug is likely to do more to reduce its abuse than a policy that reduces the availability of a socially accepted drug. Drinking is socially accepted and fully integrated into normal social life. This is not true of heroin, cocaine, and methamphetamine, which are widely regarded as evil. For this reason drug prohibition might be much more effective at reducing drug abuse than alcohol prohibition would now be at reducing alcohol abuse. It is also true that if alcohol prohibition is adopted now, many people who have built their livelihood around manufacturing, selling, and serving alcohol would be adversely affected. These are people who made certain decisions, for example, to open a restaurant, based on the assumption that it will be legal to sell alcohol. This is not true of continuing the policy of drug prohibition. Taking these and other considerations into account, it is arguable that whereas the benefits of continuing drug prohibition outweigh the costs, the costs of now instituting alcohol prohibition outweigh the benefits, even though alcohol

abuse is generally more destructive than the abuse of other drugs.

4. Fatty Foods and Tobacco Prohibition?

A related objection is that the consumption of other goods is at least as harmful as drug use and we do not think that these other goods should be prohibited. For example, obesity and smoking cause far more deaths than drug use does, and we don't think that the manufacture and sale of fatty foods or cigarettes should be prohibited. Isn't this inconsistent? No, because one can reasonably argue that whereas the benefits of continuing to prohibit the manufacture and sale of drugs outweigh the costs, this is not true of now prohibiting these other products. Food production and the food service industry is a large sector of our economy, and the production, sale, and preparation of fatty foods is a large part of this sector. If the government were now to prohibit the manufacture and sale of all fatty foods this would have a huge negative impact on our economy, our way of life, and our habits of socializing. The same cannot be said for continuing (and properly modifying) drug prohibition. Tobacco prohibition is a harder case, but even here there are important differences between the case for drug prohibition and for laws prohibiting the manufacture and sale of cigarettes. A central concern in defending drug laws is the damage that drug abuse does to young people in limiting their future prospects, by causing the loss of important opportunities that will be difficult to recover. If a young person neglects his schoolwork and employment as a result of drug abuse, this is likely to have a lasting negative impact on his life. If a child is neglected by her parents due to drug abuse, this will increase her risk of serious injury and may have a lasting negative impact on her emotional and intellectual development. The availability of cigarettes does not have this same kind of negative impact. When a young person smokes, she increases her risk of certain serious diseases as an adult. Smoking, however, does not interfere with a person's intellectual and emotional development in the way that drug abuse and parental neglect do. Furthermore, the risks created by smoking as teenager

can be effectively reduced later in life, by quitting as an adult. A similar point may be made about obesity. Finally, although cigarette smoking and obesity may be more likely to shorten a person's life, the kind of drug abuse that results in parental neglect or dropping out of school may have a greater negative impact on the overall quality of a person's life. The risk to a young person of being in an environment where drugs are easily available is thus different, and in some ways significantly worse, than being in an environment where cigarettes or fatty foods are easily available. Consequently there is no inconsistency in accepting this argument for drug prohibition and rejecting corresponding arguments for prohibiting cigarettes and fatty foods.

CONCLUSION

To conclude, support for drug prohibition is consistent with opposing drug criminalization; it is consistent with respect for personal autonomy; it is consistent with the principle that each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override; it is consistent with opposing the kind of paternalism that defenders of individual liberty have found most appalling; it is consistent with not supporting alcohol prohibition; it is consistent with not supporting cigarette and fatty food prohibition.

It remains an open question whether the benefits of drug prohibition really justify its costs. One cost I haven't considered is the negative impact that drug prohibition has on the political cultures of drug producing countries, such as Mexico, Colombia and Afghanistan. Because drugs are illegal in Europe and North America, drug wholesalers in drug producing countries can make huge profits by selling drugs to drug retailers in rich countries, which the drug wholesalers then use to bribe and intimidate local police, judges, and politicians, fostering government corruption. It is also true that because drugs are illegal in these countries those in the drug trade must settle their disputes with violence and intimidation,

and that innocent bystanders in these countries are sometimes harmed as a result. So it is arguable that drug prohibition harms the citizens of drug producing countries too much to be justified by the goal of reducing drug abuse in rich countries, even granting that drug abuse in rich countries would soar if drugs were legalized there.

This is a serious objection. Whether it is decisive depends on how much less corrupt the governments of drug producing nations would be and how much safer their citizens would be without drug prohibition. It depends, too, on how much drug abuse would increase in drug producing countries if drugs were legalized there. One of the most serious worries about legalizing drugs is the expected increase in drug abuse by relatively disadvantaged youth who already lack good educational and employment opportunities, and the expected increase in drug abuse by their parents. If there is reason to worry about the impact of drug legalization on the disadvantaged youth of rich countries, there is also reason to worry about the impact of drug legalization on the disadvantaged youth of drug producing nations, which are relatively poorer. When we consider the negative impact of drug prohibition on these countries, we must therefore also consider the likely negative impact of drug legalization. If drug abuse among young people and their parents in drug producing countries would increase dramatically with drug legalization, and if drug prohibition is not the primary cause of government corruption in these countries, and is not a major cause of violence to innocent bystanders, then it makes sense to believe that the overall benefits of drug prohibition to everyone outweigh the costs, and so to oppose drug legalization on this ground.

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READING QUESTIONS

1. According to de Marneffe, drug criminalization is incompatible with personal autonomy, but drug prohibition is not. How does de Marneffe argue for these claims?
2. In discussing drug prohibition and individual rights, de Marneffe invokes what he calls the "burdens principle." What is this principle and how does de Marneffe use it in defending his claim that drug prohibition is consistent with respecting individual rights?
3. What reasons does de Marneffe give for claiming that his position on drug prohibition does not automatically imply that prohibitions on alcohol, fatty foods and tobacco would be justified?

DISCUSSION QUESTIONS

1. Do you agree with de Marneffe that the legalization of drugs will result in a dramatic increase in serious and harmful drug abuse? Why or why not?
2. In the concluding section of his article, de Marneffe raises a potential objection to his view on drug prohibition, namely, that the benefits of prohibition are outweighed by the costs. What costs does de Marneffe mention? Do you think the costs in question are enough to outweigh the benefits of prohibition? (In thinking about this question, readers are advised to consult Web resources to gather information about drug-related violence and drug abuse.)

ROBERT E. GOODIN

Permissible Paternalism: Saving Smokers from Themselves

Contrary to the widely shared assumption that legal paternalism is at odds with the proper practices of liberal democracies, Goodin argues that some forms of control and interference may be morally justified on paternalist grounds. In defending legal paternalism, Goodin

focuses on smoking, arguing that there may be good reasons, consistent with liberal democracy, for public officials to pass laws that would interfere with this activity. Goodin does recognize a presumption against paternalistic interference by government, and claims that public officials should refrain from paternalistic intervention in the lives of its citizens regarding any type of activity when they are convinced that persons engaging in that activity are acting on preferences that are *relevant, settled, preferred*, and perhaps *their own*. Using the case of Rose Cipollone (a smoker who successfully won a court case against a tobacco company) as an example, Goodin explains how the "manifest preferences" of smokers are often not relevant, not settled, not preferred, and not their own. Goodin concludes by considering the kinds of governmental regulation of smoking that might be paternalistically justified.

Recommended Reading: Section 3 of this chapter's introduction to liberty-limiting principles. Also relevant, chap. 1, sec. 2D, on rights.

Paternalism is desperately out of fashion. Nowadays notions of "children's rights" severely limit what even parents may do to their own offspring, in their children's interests but against their will. What public officials may properly do to adult citizens, in their interests but against their will, is presumably even more tightly circumscribed. So the project I have set for myself—carving out a substantial sphere of morally permissible paternalism—might seem simply preposterous in present political and philosophical circumstances.

Here I shall say no more about the paternalism of parents toward their own children. My focus will instead be upon ways in which certain public policies designed to promote people's interests might be morally justifiable even if those people were themselves opposed to such policies.

Neither shall I say much more about notions of rights. But in focusing upon people's interests rather than their rights, I shall arguably be sticking closely to the sorts of concerns that motivate rights theorists. Of course, what it is to have a right is itself philosophically disputed; and on at least one account (the so-called "interest theory") to have a right is nothing more than to have a legally protected interest. But on the rival account (the so-called "choice theory")

the whole point of rights is to have a legally protected choice. There, the point of having a right is that your choice in the matter will be respected, even if that choice actually runs contrary to your own best interests.

It is that understanding of rights which leads us to suppose that paternalism and rights are necessarily at odds, and there are strict limits in the extent to which we might reconcile the two positions. Still, there is some substantial scope for compromise between the two positions.

Those theorists who see rights as protecting people's choices rather than promoting their interests would be most at odds with paternalists who were proposing to impose upon people what is judged to be *objectively* good for them. That is to say, they would be most at odds if paternalists were proposing to impose upon people outcomes which are judged to be good for those people, whether or not there were any grounds for that conclusion in those people's own subjective judgments of their own good.

Rights theorists and paternalists would still be at odds, but less at odds, if paternalists refrained from talking about interests in so starkly objective a way. Then, just as rights command respect for people's choices, so too would paternalists be insisting that

From Robert E. Goodin, "Permissible Paternalism: Saving Smokers from Themselves," in William H. Shaw, ed., *Social and Personal Ethics*, 3rd edition, Wadsworth, 1999. Reprinted by permission of the author.

we respect choices that people themselves have or would have made. The two are not quite the same, to be sure, but they are much more nearly the same than the ordinary contrast between paternalists and rights theorists would seem to suggest.

That is precisely the sort of conciliatory gesture that I shall here be proposing. In paternalistically justifying some course of action on the grounds that it is in someone's interests, I shall always be searching for some warrant in that person's own value judgments for saying that it is in that person's interests.

"Some warrant" is a loose constraint, to be sure. Occasionally will we find genuine cases of what philosophers call "weakness of will": people being possessed of a powerful, conscious present desire to do something that they nonetheless just cannot bring themselves to do. Then public policy forcing them to realize their own desire, though arguably paternalistic, is transparently justifiable even in terms of people's own subjective values. More often, though, the subjective value to which we are appealing is one which is present only in an inchoate form, or will only arise later, or can be appreciated only in retrospect.

Paternalism is clearly paternalistic in imposing those more weakly-held subjective values upon people in preference to their more strongly held ones. But, equally clearly, it is less offensively paternalistic thanks to this crucial fact: at least it deals strictly in terms of values that are or will be subjectively present, at some point or another and to some extent or another, in the person concerned.

I. THE SCOPE OF PATERNALISM

When we are talking about public policies (and maybe even when we are talking of private, familial relations), paternalism surely can only be justified for the "big decisions" in people's lives. No one, except possibly parents and perhaps not even they, would propose to stop you from buying candy bars on a whim, under the influence of seductive

advertising and at some marginal cost to your dental health.

So far as public policy is concerned, certainly, to be a fitting subject for public paternalism a decision must first of all involve high stakes. Life-and-death issues most conspicuously qualify. But so do those that substantially shape your subsequent life prospects. Decisions to drop out of school or to begin taking drugs involve high stakes of roughly that sort. If the decision is also substantially irreversible—returning to school is unlikely, the drug is addictive—then that further bolsters the case for paternalistic intervention.

The point in both cases is that people would not have a chance to benefit by learning from their mistakes. If the stakes are so high that losing the gamble once will kill you, then there is no opportunity for subsequent learning. Similarly, if the decision is irreversible, you might know better next time but be unable to benefit from your new wisdom.

II. EVALUATING PREFERENCES

The case for paternalism, as I have cast it, is that the public officials might better respect your own preferences than you would have done through your own actions. That is to say that public officials are engaged in evaluating your (surface) preferences, judging them according to some standard of your own (deeper) preferences. Public officials should refrain from paternalistic interference, and allow you to act without state interference, only if they are convinced that you are acting on:

- *relevant* preferences;
- *settled* preferences;
- *preferred* preferences; and, perhaps,
- *your own* preferences.

In what follows, I shall consider each of those requirements in turn. My running example will be the problem of smoking and policies to control it. Nothing turns on the peculiarities of that example, though. There are many others like it in relevant respects.

It often helps, in arguments like this, to apply generalities to particular cases. So, in what follows, I shall further focus in on the case of one particular smoker, Rose Cipollone. Her situation is nowise unique—in all the respects that matter here, she might be considered the proto-typical smoker. All that makes her case special is that she (or more precisely her heir) was the first to win a court case against the tobacco companies whose products killed her.

In summarizing the evidence presented at that trial, the judge described the facts of the case as follows.

Rose... Cipollone... began to smoke at age 16... while she was still in high school. She testified that she began to smoke because she saw people smoking in the movies, in advertisements, and looked upon it as something "cool, glamorous and grown-up" to do. She began smoking Chesterfields... primarily because of advertising of "pretty girls and movie stars," and because Chesterfields were described as "mild."...

Mrs. Cipollone attempted to quit smoking while pregnant with her first child..., but even then she would sneak cigarettes. While she was in labor she smoked an entire pack of cigarettes, provided to her at her request by her doctor, and after the birth... she resumed smoking. She smoked a minimum of a pack a day and as much as two packs a day.

In 1955, she switched... to L&M cigarettes... because... she believed that the filter would trap whatever was "bad" for her in cigarette smoking. She relied upon advertisements which supported that contention. She... switched to Virginia Slims... because the cigarettes were glamorous and long, and were associated with beautiful women—and the liberated woman....

Because she developed a smoker's cough and heard reports that smoking caused cancer, she tried to cut down her smoking. These attempts were unsuccessful....

Mrs. Cipollone switched to lower tar and nicotine cigarettes based upon advertising from which she concluded that those cigarettes were safe or safer... [and] upon the recommendation of her family physician. In 1981 her cancer was diagnosed, and even though her doctors advised her to stop she was unable to do so. She even told her doctors and her husband that she had quit when she had not, and she continued to smoke until June of 1982 when her lung was removed. Even thereafter she smoked occasionally—in hiding. She stopped smoking in 1983 when her cancer had metastasized and she was diagnosed as fatally ill.

This sad history contains many of the features that I shall be arguing make paternalism most permissible.

Relevant Preferences

The case against paternalism consists in the simple proposition that, morally, we ought to respect people's own choices in matters that affect themselves and by-and-large only themselves. But there are many questions we first might legitimately ask about those preferences, without in any way questioning this fundamental principle of respecting people's autonomy.

One is simply whether the preferences in play are genuinely *relevant* to the decision at hand. Often they are not. Laymen often make purely factual mistakes in their means-ends reasoning. They think—or indeed, as in the case of Rose Cipollone, are led by false advertising to suppose—that an activity is safe when it is not. They think that an activity like smoking is glamorous, when the true facts of the matter are that smoking may well cause circulatory problems requiring the distinctly unglamorous amputation of an arm or leg.

When people make purely factual mistakes like that, we might legitimately override their surface preferences (the preference to smoke) in the name of their own deeper preferences (to stay alive and bodily intact). Public policies designed to prevent youngsters from taking up smoking when they want to, or to make it harder (more expensive or inconvenient) for existing smokers to continue smoking when they want to, may be paternalistic in the sense of running contrary to people's own manifest choices in the matter. But this overriding of their choices is grounded in their own deeper preferences, so such paternalism would be minimally offensive from a moral point of view.

Settled Preferences

We might ask, further, whether the preferences being manifested are "settled" preferences or whether they are merely transitory phases people are going through. It may be morally permissible to let people commit euthanasia voluntarily, if we are sure they really want

to die. But if we think that they may subsequently change their minds, then we have good grounds for supposing that we should stop them.

The same may well be true with smoking policy. While Rose Cipollone herself thought smoking was both glamorous and safe, youngsters beginning to smoke today typically know better. But many of them still say that they would prefer a shorter but more glamorous life, and that they are therefore more than happy to accept the risks that smoking entails. Say what they may at age sixteen, though, we cannot help supposing that they will think differently when pigeons eventually come home to roost. The risk-courting preferences of youth are a characteristic product of a peculiarly dare-devil phase that virtually all of them will, like their predecessors, certainly grow out of.

Insofar as people's preferences are not settled—insofar as they choose one option now, yet at some later time may wish that they had chosen another—we have another ground for permissible paternalism. Policy-makers dedicated to respecting people's own choices have, in effect, two of the person's own choices to choose between. How such conflicts should be settled is hard to say. We might weigh the strength or duration of the preferences, how well they fit with the person's other preferences, and so on.

Whatever else we do, though, we clearly ought not privilege one preference over another just because it got there first. Morally, it is permissible for policy-makers to ignore one of a person's present preferences (to smoke, for example) in deference to another that is virtually certain later to emerge (as was Rose Cipollone's wish to live, once she had cancer).

Preferred Preferences

A third case for permissible paternalism turns on the observation that people have not only multiple and conflicting preferences but also preferences for preferences. Rose Cipollone wanted to smoke. But, judging from her frequent (albeit failed) attempts to quit, she also wanted *not to want* to smoke.

In this respect, it might be said, Rose Cipollone's history is representative of smokers more generally.

The US Surgeon General reports that some 90 percent of regular smokers have tried and failed to quit. That recidivism rate has led the World Health Organization to rank nicotine as an addictive substance on a par with heroin itself.

That classification is richly confirmed by the stories that smokers themselves tell about their failed attempts to quit. Rose Cipollone tried to quit while pregnant, only to end up smoking an entire pack in the delivery room. She tried to quit once her cancer was diagnosed, and once again after her lung was taken out, even then only to end up sneaking an occasional smoke.

In cases like this—where people want to stop some activity, try to stop it but find that they cannot stop—public policy that helps them do so can hardly be said to be paternalistic in any morally offensive respect. It overrides people's preferences, to be sure. But the preferences which it overrides are ones which people themselves wish they did not have.

The preferences which it respects—the preferences to stop smoking (like preferences of reformed alcoholics to stay off drink, or of the obese to lose weight)—are, in contrast, preferences that the people concerned themselves prefer. They would themselves rank those preferences above their own occasional inclinations to backslide. In helping them to implement their own preferred preferences, we are only respecting people's own priorities.

Your Own Preferences

Finally, before automatically respecting people's choices, we ought to make sure that they are really their *own* choices. We respect people's choices because in that way we manifest respect for them as persons. But if the choices in question were literally someone else's—the results of a post-hypnotic suggestion, for example—then clearly there that logic would provide no reason for our respecting those preferences.

Some people say that the effects of advertising are rather like that. No doubt there is a certain informational content to advertising. But that is not all there is in it. When Rose Cipollone read the tar and nicotine content in advertisements, what she was getting was

promotional advertising of tobacco products, designed as it is to attract new users. We might prohibit smoking in all offices, restaurants, and other public places, thus making it harder for smokers to find a place to partake and providing a further inducement for them to quit.

All of those policies would be good for smokers themselves. They would enjoy a longer life expectancy and a higher quality of life if they stopped smoking. But that is to talk the language of interests rather than of rights and choices. In those latter terms, all those policies clearly go against smokers' manifest preferences; in one sense or another. Smokers want to keep smoking. They do not want to pay more or drive further to get their cigarettes. They want to be able to take comfort in advertisements constantly telling them how glamorous their smoking is.

In other more important senses, though, such policies can be justified even in terms of the preferences of smokers themselves. They do not want to die, as a quarter of them eventually will (and ten to fifteen years before their time) of smoking-related diseases; it is only false beliefs or wishful thinking that make smokers think that continued smoking is consistent with that desire not to avoid a premature death. At the moment they may think that the benefits of smoking outweigh the costs, but they will almost certainly revise that view once those costs are eventually sheered home. The vast majority of smokers would like to stop smoking but, being addicted, find it very hard now to do so.

Like Rose Cipollone, certainly in her dying days and intermittently even from her early adulthood, most smokers themselves would say that they would have been better off never starting. Many even agree that they would welcome anything (like a workplace ban on smoking) that might now make them stop. Given the internally conflicting preferences here in play, smokers also harbor at one and the same time preferences pointing in the opposite direction; that is what might make helping them to stop seem unacceptable. But in terms of other of their preferences—and ones that deserve clear precedence, at that—doing so is perfectly well warranted. Smoking is unusual, perhaps, in presenting a case for permissible paternalism on all four of the fronts

information. What she was getting when looking at the accompanying pictures of movie stars and glamorous, liberated women was something else altogether. Using the power of subliminal suggestion, advertising implants preferences in people in a way that largely or wholly bypasses their judgment. Insofar as it does so, the resulting preferences are not authentically that person's own. And those implanted preferences are not entitled to the respect that is rightly reserved for a person's authentic preferences, in consequence.

Such thoughts might lead some to say that we should therefore ignore altogether advertising-induced preferences in framing our public policy. I demur. There is just too much force in the rejoinder that, "Wherever those preferences came from in the first instance, they are mine now." If we want our policies to respect people by (among other things) respecting their preferences, then we will have to respect all of those preferences with which people now associate themselves.

Even admitting the force of that rejoinder, though, there is much that still might be done to curb the preference-shaping activities of, for example, the tobacco industry. Even those who say "they're my preferences now" would presumably have preferred, ahead of time, to make up their own minds in the matter. So there we have a case, couched in terms of people's own (past) preferences, for severely restricting the advertising and promotion of products—especially ones which people will later regret having grown to like, but which they will later be unable to resist.

III. CONCLUSIONS

What, in practical policy terms, follows from all that? Well, in the case of smoking, which has served as my running example, we might ban the sale of tobacco altogether or turn it into a drug available only on prescription to registered users. Or, less dramatically, we might make cigarettes difficult and expensive to obtain—especially for youngsters, whose purchases are particularly price-sensitive. We might ban all

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here canvassed. Most activities might qualify under only one or two of the headings. However, that may well be enough. My point here is not that paternalism is always permissible but merely that it may always be.

In the discourse of liberal democracies, the charge of paternalism is typically taken to be a knock-down objection to any policy. If I am right, that knee-jerk

response is wrong. When confronted with the charge of paternalism, it should always be open to us to say, "Sure, this proposal is paternalistic—but is the paternalism in view permissible or impermissible, good or bad?" More often than not, I think we will find, paternalism might prove perfectly defensible along the lines sketched here.

READING QUESTIONS

1. What should the scope of paternalism be according to Goodin?
2. When should public officials refrain from paternalistic interference according to Goodin?
3. Explain the case of Rose Cipollone and the differences among relevant, settled, preferred, and one's own preferences.
4. What are some of the public policies that Goodin thinks might be justified in the light of his considerations about the interests and preferences of smokers?

DISCUSSION QUESTION

1. Kant and many other philosophers hold that one has duties to oneself, including a duty to refrain from harmful activities. Can there be duties that one owes to oneself? If not, why not? If so, is refraining from smoking one of them?

DANIEL SHAPIRO

Addiction and Drug Policy

According to the "standard view" of addiction, certain drugs are highly addictive largely because of their pharmacological effects—effects on the brain owing to the chemical constitution of the drug. This kind of pharmacological explanation plays a significant role in some arguments in favor of legal bans on certain drugs, especially "hard drugs." Shapiro challenges the standard view, arguing that factors such as an individual's mind-set as well as an individual's social and cultural setting importantly contribute to drug addiction. According to Shapiro, then, cravings, increased drug tolerance, and withdrawal symptoms cannot

explain drug addiction. He bolsters his case against the standard view by examining nicotine addiction.

Most people think that illegal drugs, such as cocaine and heroin, are highly addictive. Usually their addictiveness is explained by pharmacology: their chemical composition and its effects on the brain are such that, after a while, it's hard to stop using them. This view of drug addiction—I call it the standard view—underlies most opposition to legalizing cocaine and heroin. James Wilson's (1990) arguments are typical: legalization increases access, and increased access to addictive drugs increases addiction. The standard view also underlies the increasingly popular opinion, given a philosophical defense by Robert Goodin (1989), that cigarette smokers are addicts in the grip of a powerful drug.

However, the standard view is false: pharmacology, I shall argue, does not by itself do much to explain drug addiction. I will offer a different explanation of drug addiction and discuss its implications for the debate about drug legalization.

PROBLEMS WITH THE STANDARD VIEW

We label someone as a drug addict because of his behavior. A drug addict uses drugs repeatedly, compulsively, and wants to stop or cut back on his use but finds it's difficult to do so; at its worst, drug addiction dominates or crowds out other activities and concerns. The standard view attempts to explain this compulsive behavior by the drug's effects on the brain. Repeated use of an addictive drug induces cravings and the user comes to need a substantial amount to get the effect she wants, i.e., develops tolerance. If the user tries to stop, she then suffers very disagreeable effects, called withdrawal symptoms. (For more detail on the standard view, see American Psychiatric Association 1994, 176–81.)

Cravings, tolerance, and withdrawal symptoms: do these explain drug addiction? A craving or strong desire to do something doesn't *make* one do something: one can act on a desire or ignore it or attempt to extinguish it. Tolerance explains why the user increases her intake to get the effect she wants, but that doesn't explain why she would find it difficult to *stop wanting* this effect. Thus, the key idea in the standard view is really withdrawal symptoms, because that is needed to explain the difficulty in extinguishing the desire to take the drug or to stop wanting the effects the drug produces. However, for this explanation to work, these symptoms have to be really bad, for if they aren't, why not just put up with them as a small price to pay for getting free of the drug? However, withdrawal symptoms aren't *that* bad. Heroin is considered terribly addictive, yet pharmacologists describe its withdrawal symptoms as like having a bad flu for about a week: typical withdrawal symptoms include fever, diarrhea, sneezing, muscle cramps, and vomiting (Kaplan 1983, 15, 19, 35). While a bad flu is quite unpleasant, it's not so bad that one has little choice but to take heroin rather than experience it. Indeed, most withdrawal symptoms for any drug cease within a few weeks, yet most heavy users who relapse do so after that period and few drug addicts report withdrawal symptoms as the reason for their relapse (Peele 1985, 19–20, 67; Schacter 1982, 436–44; Waldorf, Reinerman, and Murphy 1991, 241).

Thus, cravings, tolerance, and withdrawal symptoms cannot explain addiction. An additional problem for the standard view is that most drug users, whether they use legal or illegal drugs, do not become addicts, and few addicts remain so permanently. (Cigarette smokers are a partial exception, which I discuss later.) Anonymous surveys of drug users by the Substance Abuse and Mental Health Services Administration indicate that less than 10 percent of

From Daniel Shapiro, "Addiction and Drug Policy," in *Morality and Moral Controversies*, 5th ed., Prentice-Hall, 1999. Copyright © 1998 by Daniel Shapiro. Reprinted by permission of the author.

I will defend a view of addiction summed up by Norman Zinberg's book, *Drug, Set, and Setting* (1984). "Drug" means pharmacology; "set" means the individual's mindset, his personality, values, and expectations; and "setting" means the cultural or social surroundings of drug use. This should sound like common sense. Humans are interpretive animals, and so what results from drug use depends not just on the experience or effects produced by the drug but also on the interpretation of that experience or effects. And how one interprets or understands the experience depends on one's individuality and the cultural or social setting. I begin

AN ALTERNATIVE VIEW

those who have tried powder cocaine use it monthly (National Household Survey of Drug Abuse 2001, tables H1 and H2). Furthermore, most monthly users are not addicts; a survey of young adults, for example (Johnston, O'Malley, and Bachman for the National Institute on Drug Abuse 1996, 84-5), found that less than 10 percent of monthly cocaine users used it daily. (Even a daily user need not be an addict; someone who drinks daily is not thereby an alcoholic.) The figures are not appreciably different for crack cocaine (Erickson, Smart, and Murray 1994, 167-74, 231-32, Morgan and Zimmer 1997, 142-44) and only slightly higher for heroin (Husak 1992, 125; Sullum 2003, 228). These surveys have been confirmed by longitudinal studies—studies of a set of users over time—which indicate that moderate and/or controlled use of these drugs is the norm, not the exception, and that even heavy users do not inevitably march to addiction, let alone remain permanent addicts (Waldorf, Reinerman, and Murphy 1991, Erickson, Smart, and Murray 1994, 111-34, 152-71). The standard view has to explain the preeminence of controlled use by arguing that drug laws reduce access to illegal drugs. However, I argue below that even with easy access to drugs most people use them responsibly, and so something other than the law and pharmacology must explain patterns of drug use.

Hospital patients that get continuous with setting. Hospital patients rarely get addicted and massive doses of narcotics rarely get added or crave the drugs after release from the hospital (Peele 1985, 17; Falk 1996, 9). The quantity and duration of their drug use pales in significance compared with the setting of their drug consumption subsequent ill effects from the drug are rarely interpreted in terms of addiction. A study of Vietnam veterans, the largest study of untreated heroin users ever conducted, provides more dramatic evidence of the role of setting. Three-quarters of Vietnam vets who used heroin in Vietnam became addicted but after coming home, only half of heroin users in Vietnam continued to use, and of those only 12 percent were addicts (Robins, Helzer, Hesselbrock, and Wish 1980). Wilson also mentions this study and says that the change was because heroin is illegal in the U.S. (1990, 22), and while this undoubtedly played a role, so did the difference in social setting: Vietnam, with its absence of work and family, as well as loneliness and fear of death, helped to promote acceptance of heavy drug use.

Along the same lines, consider the effects of alcohol in different cultures. In Finland, for example, violence and alcohol are linked, for sometimes heavy drinkers end up in fights; in Greece, Italy, and other Mediterranean countries, however, where almost all drinking is moderate and controlled, there is no violence-alcohol link (Peele 1985, 25). Why the differences? Humans are social or cultural animals, not just products of their biochemistry, and this means, in part, that social norms or rules play a significant role in influencing behavior. In cultures where potently intoxicating drugs such as alcohol are viewed as supplements or accompaniments to life, moderately controlled use will be the norm—hence, even though Mediterranean cultures typically consume large amounts of alcohol, there is little alcoholism—while in cultures where alcohol is also viewed as a way of escaping one's problems, alcoholism will be more prevalent, which may explain the problem in Finland and some other Scandinavian cultures. In addition to cultural influences, most people learn to use alcohol responsibly by observing their parents. They see their parents drink at a ball game or to celebrate special occasions or with food at a meal, but

rarely on an empty stomach; they learn it's wrong to be drunk at work, to drink and drive; they learn that uncontrolled behavior with alcohol is generally frowned upon; they absorb certain norms and values such as "know your limit," "don't drink alone," "don't drink in the morning," and so forth. They learn about rituals which reinforce moderation, such as the phrase "let's have a drink." These informal rules and rituals teach most people how to use alcohol responsibly (Zinberg 1987, 258-62).

While social controls are harder to develop with illicit drugs—accurate information is pretty scarce, and parents feel uncomfortable teaching their children about controlled use—even here sanctions and rituals promoting moderate use exist. For example, in a study of an eleven-year follow-up of an informal network of middle-class cocaine users largely connected through ties of friendship, most of whom were moderate users, the authors concluded that:

Rather than cocaine overpowering user concerns with family, health, and career, we found that the high value most of our users placed upon family, health, and career achievement . . . mitigated against abuse and addiction. Such group norms and the informal social controls that seemed to stem from them (e.g., expressions of concern, warning about risks, the use of pejorative names like "coke hog," refusal to share with abusers) mediated the force of pharmacological, physiological, and psychological factors which can lead to addiction (Murphy 1989: 435).

Even many heavy cocaine users are able to prevent their use from becoming out of control (or out of control for significant periods of time) by regulating the time and circumstances of use (not using during work, never using too late at night, limiting use on weekdays), using with friends rather than alone, employing fixed rules (paying bills before spending money on cocaine), etc. (Waldorf, Reinerman, and Murphy 1991). Unsurprisingly, these studies of controlled cocaine use generally focus on middle-class users: their income and the psychological support of friends and family put them at less of a risk of ruining their lives by drug use than those with little income or hope (Peele 1991, 159-60).

I now examine the effects of set on drug use, that is, the effect of expectations, personality, and values.

Expectations are important because drug use occurs in a pattern of ongoing activity, and one's interpretation of the drug's effects depends upon expectations of how those effects will fit into or alter those activities. Expectations explain the well-known placebo effect: if people consume something they mistakenly believe will stop or alleviate their pain, it often does. Along the same lines, in experiments with American college-age men, aggression and sexual arousal increased when these men were told they were drinking liquor, even though they were drinking 0 proof, while when drinking liquor and told they were not, they acted normally (Peele 1985, 17). The role of expectations also explains why many users of heroin, cocaine, and other psychoactive drugs do not like or even recognize the effects when they first take it and have to be taught to or learn how to appreciate the effects (Peele 1985, 13-14; Waldorf, Reinerman, and Murphy 1991, 264; Zinberg 1984, 117). The importance of expectations means that those users who view the drug as overpowering them will tend to find their lives dominated by the drug, while those who view it as an enhancement or a complement to certain experiences or activities will tend not to let drugs dominate or overpower their other interests (Peele 1991, 156-58, 169-70).

As for the individual's personality and values, the predictions of common sense are pretty much accurate. Psychologically healthy people are likely to engage in controlled, moderate drug use, or if they find themselves progressing to uncontrolled use, they tend to cut back. On other hand, drug addicts of all kinds tend to have more psychological problems before they started using illicit drugs (Peele 1991, 153-54, 157; Zinberg 1984, 74-76). People who are motivated to control their own lives will tend to make drug use an accompaniment or an ingredient in their lives, not the dominant factor. Those who place a high value on responsibility, work, family, productivity, etc., will tend to fit drug use into their lives rather than letting it run their lives (Waldorf, Reinerman, and Murphy 1991, 267; Peele 1991, 160-66). That's why drug use of all kinds, licit or illicit, tends to taper off with age: keeping a job, raising a family, and so forth leave limited time or motivation for uncontrolled or near continuous drug use (Peele 1985, 15). And it's why

it's not uncommon for addicts to explain their addiction by saying that they drifted into the addict's life; with little to compete with their drug use, or lacking motivation to substitute other activities or interests, drug use comes to dominate their lives (DeGrandpre and White 1996, 44-46). Those with richer lives, or who are motivated on an individual and/or cultural level to get richer lives, are less likely to succumb to addiction. To summarize: even with easy access to intoxicating drugs, most drug users don't become addicts, or if they do, don't remain addicts for that long, because most people have and are motivated to find better things to do with their lives. These better things result from their individual personality and values and their social or cultural setting.

CIGARETTE SMOKING AND THE ROLE OF PHARMACOLOGY

I've discussed how set and setting influence drug use, but where does pharmacology fit in? Its role is revealed by examining why it is much harder to stop smoking cigarettes—only half of smokers that try to stop smoking succeed in quitting—than to stop using other substances. (For more detail in what follows, see Shapiro 1994 and the references cited therein.)

Smokers smoke to relax; to concentrate; to handle anxiety, stress, and difficult interpersonal situations; as a way of taking a break during the day; as a social lubricant; as a means of oral gratification—and this is a partial list. Since smoking is a means to or part of so many activities, situations, and moods, stopping smoking is a major life change and major life changes do not come easily. Part of the reason smoking is so integrated into people's lives is pharmacological. Nicotine's effects on the brain are mild and subtle: it doesn't disrupt your life. While addicts or heavy users of other drugs such as cocaine, heroin, or alcohol also use their drugs as a means to or part of a variety of activities, situations, and moods, most users of these drugs are not lifelong addicts or heavy users, because these drugs are not so mild and heavy use

has a stronger tendency over time to disrupt people's lives. The pharmacology of smoking, however, cannot be separated from its social setting. Smoking doesn't disrupt people's lives in part because it is legal. Even with increasing regulations, smokers still can smoke in a variety of situations (driving, walking on public streets, etc.), while one cannot use illegal drugs except in a futile and secretive manner. Furthermore, the mild effects of nicotine are due to its mild potency—smokers can carefully control their nicotine intake, getting small doses throughout the day—and its mild potency is due partly to smoking being legal. Legal drugs tend to have milder potencies than illegal ones for two reasons. First, illegal markets create incentives for stronger potencies, as sellers will favor concentrated forms of a drug that can be easily concealed and give a big bang for the buck. Second, in legal markets different potencies of the same drug openly compete, and over time the weaker ones come to be preferred—consider the popularity of low tar/nicotine cigarettes and wine and beer over hard liquor.

Thus, pharmacology and setting interact: smoking is well integrated into people's lives because the nicotine in cigarettes has mild pharmacological effects and because smoking is legal, and nicotine has those mild effects in part because smoking is legal. Pharmacology also interacts with what I've been calling set. The harms of smoking are slow to occur, are cumulative, and largely affect one's health, not one's ability to perform normal activities (at least prior to getting seriously ill). Furthermore, to eliminate these harms requires complete smoking cessation; cutting back rarely suffices (even light smokers increase their chances of getting lung cancer, emphysema, and heart disease). Thus, quitting smoking requires strong motivation, since its bad effects are not immediate and it does not disrupt one's life. Add to this what I noted earlier, that stopping smoking means changing one's life, and it's unsurprising that many find it difficult to stop.

Thus, it is a mistake to argue, as Goodin did, that the difficulty in quitting is mainly explicable by the effects of nicotine. Smokers are addicted to smoking, an activity, and their being addicted to it

is not reducible to their being addicted to a *drug*. If my explanation of the relative difficulty of quitting smoking is correct, then the standard view of an addictive drug is quite suspect. That view suggests that knowledge of a drug's pharmacology provides a basis for making reasonable predictions about a drug's addictiveness. However, understanding nicotine's effects upon the brain (which is what Goodin stressed in his explanation of smokers' addiction) does not tell us that it's hard to stop smoking; we only know that once we add information about set and setting. Generalizing from the case of smoking, all we can say is:

The milder the effects upon the brain, the easier for adults to purchase, the more easily integrated into one's life, and the more the bad effects are cumulative, slow-acting and only reversible upon complete cessation, the more addictive the drug.

Besides being a mouthful, this understanding of drug addiction requires introducing the *interaction* of set and setting with pharmacology to explain the addictiveness potential of various drugs. It is simpler and less misleading to say that people tend to *addict themselves* to various substances (and activities), this tendency varying with various cultural and individual influences.

CONCLUSION

My argument undercuts the worry that legalizing cocaine and heroin will produce an explosion of addiction because people will have access to inherently and powerfully addictive drugs. The standard view that cocaine and heroin are *inherently* addictive is false, because no drug is inherently addictive. The desire of most people to lead responsible and productive lives in a social setting that rewards such desires is what controls and limits most drug use. Ironically, if cocaine and heroin in a legal market would be as disruptive as many drug prohibitionists fear, then that is an excellent reason why addiction would not explode under legalization—drug use that

tends to thrive is drug use that is woven into, rather than disrupts, responsible people's lives.

ADDENDUM

After I wrote this article, some of my students raised the following objection. I argue that drug addiction that disrupts people's lives would not thrive under legalization because most people's desire and ability to lead responsible lives would break or prevent such addiction. However, suppose that legalization of cocaine and heroin makes the use of those drugs similar to the use of cigarettes—small, mild doses throughout the day which are well integrated into people's lives. If legalization brings it about that those who addict themselves to these drugs are like those who addict themselves to smoking—their addiction does not disrupt their lives, but is integrated into it—wouldn't that mean that addiction to these drugs would become as prevalent as cigarette addiction?

It is possible that legalizing heroin and cocaine would make its use similar to the current use of cigarettes. However, if this happened, the main worry about heroin and cocaine addiction would be gone. We would not have a problem of a large increase in the number of people throwing away or messing up their lives. At worst, if legalizing cocaine and heroin produced as bad health effects as cigarette smoking does (which is dubious—see Carnwath and Smith 2002, 137–39; Morgan and Zimmer 1997, 131, 136, 141), then we would have a new health problem. Of course, someone might argue that one should not legalize a drug which could worsen the health of a significant percentage of its users, even if that use does not mess up most of its users' lives. It is beyond the scope of this paper to evaluate such arguments (however, see Shapiro 1994), but notice that the implications of my essay cut against the claim that these health risks were not voluntarily incurred. Since one's drug use partly depends on one's values and personality, then to the extent that one can be said to be responsible for the choices influenced

by one's values and personality, then to that extent those who addict themselves to a certain drug can be said to have voluntarily incurred the risks involved in that drug use.

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READING QUESTIONS

1. How does Shapiro characterize the "standard view" of addiction as it relates to drugs like heroin and cocaine?
2. Explain the problems with the standard view according to Shapiro.
3. What is the alternative view of addiction suggested by Shapiro? What is meant by the terms "drug," "set," and "setting" in the context of this view?
4. How does Shapiro contrast the case of cigarette smoking with the cases of addiction predicted by the standard view?

DISCUSSION QUESTIONS

1. Are there any remaining merits of the standard view of addiction rejected by Shapiro?
2. Do you think that Shapiro overestimates the positive influences of social and individual controls on the use of illicit drugs like heroin and cocaine?
3. Are there any downsides to the legalization of illicit drugs that Shapiro fails to consider?

PETER COLLINS

Is Gambling Immoral? A Virtue Ethics Approach

After explaining what gambling is, Collins proceeds to consider various kinds of arguments for the conclusion that commercial (rather than social) gambling is morally wrong. In particular, he considers and rejects arguments based on utilitarian (consequentialist) moral theory and on Kantian moral theory. He also critically considers moral arguments against gambling based on what he calls "puritan" considerations, including appeal to the idea of stewardship, which we find in Lisa Newton's anti-gambling argument from the previous article. Approaching this issue from an essentially Aristotelian virtue-based approach to ethics—according to which considerations of human eudaimonia (flourishing or happiness) play a central role in ethical decision making—Collins argues that gambling and its pleasures may play a morally acceptable role in a flourishing human life.

Recommended Reading: virtue ethics, chap. 1, sec. 2E. Also relevant are consequentialism, chap. 1, sec. 2A, and Kantian moral theory, chap. 1, sec. 2B.

1. INTRODUCTION

The question of whether gambling should be prohibited or legalised and, if legalised, how it should be regulated has received considerable attention from people who think about public policy. It is no part of my purpose

here to try to contribute to answering those questions. Clearly, in as far as these questions raise moral issues, they are issues of public rather than private morality. That is, they are about what governments should or should not use their coercive powers to do rather than about how we individually should conduct our lives in conformity with what morality requires.

From Peter Collins, "Is Gambling Immoral?" Reprinted by permission of the author.

Historically, gambling along with other activities deemed to constitute vices has been legally proscribed because two beliefs were widely held: first that gambling is immoral and second, that it is the business of government to try to stamp out activities which are immoral. The second of these beliefs, however, has for better or for worse been largely discredited in pluralist societies committed to the principles of liberal democracy, on the grounds that it is neither morally defensible nor politically practicable. As a consequence, advocates of banning or limiting legal gambling tend to avoid invoking the claim that gambling is intrinsically immoral even though this is a belief which many of them hold. Instead they focus on trying to show that prohibition or legal restriction is justified on the basis of the illegitimate harm that legalised gambling does to gamblers themselves, to third parties and to society as a whole.

But is gambling immoral? Suppose it were agreed, on the purest libertarian grounds, that the State should do absolutely nothing to try to prevent or discourage people from gambling as much as they like; would there still be any good reasons why you and I should nevertheless decide on moral grounds that gambling ought to play little or no part in the way we conduct our daily lives?

I want to anchor this discussion by identifying [two] reasons why this question deserves substantial attention from moral philosophers and certainly more attention than it has recently received.¹ . . .

First, the role which pleasure and pleasures should play in our lives is a fundamental issue in moral philosophy to the extent that it addresses the question of how ordinary people ought to conduct their everyday lives. Gambling furnishes a particularly good case study for this kind of philosophising since it not only tends to consume considerable time and money which could arguably be better spent but also has a propensity to become addictive. For reasons which may be largely self-serving we tend to avoid reflection on this kind of question when it applies to our own pleasures or those of our friends. But it becomes inescapable when we think about the need to offer rational guidance to children about how they should conduct themselves in relation to different kinds of pleasure. And as soon as we ask: "What should we

teach children about gambling?" we confront the question of the morality or otherwise of gambling.

Secondly, it is clear that gambling provides an interesting case against which to test different types of ethical theory. As we shall see, some people argue that gambling violates the principle of utility. Others claim on Kantian grounds that it is inconsistent with conduct of a rational and autonomous person. Gambling has also, of course, been condemned by those who espouse a puritan ethic whether based on religious convictions or on secular considerations.

Finally we need to consider the claim that gambling is incompatible with living the best or most fulfilling kind of life of which human beings are capable. . . .

2. WHAT IS GAMBLING?

Before we can properly address questions about the morality of gambling we need to make some conceptual points about the nature of the activity we are discussing.

The standard definition of gambling is that it involves three components:

- Something valuable is placed at risk (staked).
- With the prospect of winning something more valuable if one set of events occurs and of losing one's stake if another set of events occurs.
- Where the outcome is wholly or partly unpredictable by the gambler.

This definition, however, seems to leave some important questions unanswered amongst which I wish to single out two because of their relevance to the moral issues.

First there is the question of whether buying stocks and shares is gambling. The thought here is that a pro-gambling argument might be developed along the following lines. If there is no difference between speculating on the stock market and gambling in a casino, the latter activity can only be morally culpable if the former is too. But it would obviously be absurd to condemn investing on the stock exchange

as immoral. Therefore it is absurd to condemn gambling in casinos as immoral.

In order to refute this argument it is not necessary to rebut the full (and considerable) force of Marx's arguments to the effect that those who make money out of the mere ownership of capital in the form of shares are robbing workers of the private property which is rightfully theirs because it was created by their labour. All that is necessary is to point out that the stock exchange is not in its essence a provider of gambling services but rather of opportunities for genuine investment. The stock exchange thus differs from a casino or lottery in at least two crucial ways. First, success on the stock exchange depends primarily on the exercise of rational judgment. Second, investing in the stock market is not a zero sum game. That is, making profits on the stock exchange does not necessitate the making of losses by others: in the normal case it depends on the creation of new wealth. It is true that some investing on the stock exchange is, from the point of view of the investor, exactly like gambling—for example, if they pick their investments using a pin. Similarly, some gambling is indeed like investing on the stock exchange: the professional poker player or the bettor on horse races who is an expert on form is trying to make money out of superior knowledge and judgment. But the essence of investing in the stock market does not consist in people literally "trying their luck" in circumstances where one person's gain is always another's loss. The essence of gambling—or at least of the most widespread forms of gambling with whose morality this essay is mainly concerned—consists in just this.

This is why some of the most telling arguments against gambling are that, unlike investing, it is an irrational activity which is unproductive, at best, and destructive of wealth, at worst.

The second distinction which needs to be added to the standard definition of gambling is that between social gambling and commercial gambling. In the heyday of temperance movements, opponents of gambling argued that playing low-stakes social bridge was no less to be condemned on moral grounds than betting on horses, playing roulette or going to a gambling den. For the purposes of the present discussion,

however, I shall assume that there could be a great deal of difference from a moral point of view between:

- games of skill engaged in as a social pastime and spiced up with wagers which all participants have a formally equal chance of winning, and
- gambling on games where the outcome is unavoidably and mainly dependent on luck, in commercial contexts where the games are set up so as to make it certain that the players will in the long run lose.

Thus the morality of gambling on slot machines, as opposed to having a bet on a game of golf, may be significantly affected by the fact that anyone who plays gaming machines ought to know that over time they are bound to lose. This may, for example, strengthen the claim that such gambling must be irrational and as such morally wrong. Note also that such an argument would not be affected by whether the amount wagered was large or small.

A very important question for conceptual analysis which underlies the question of what principles we should adopt in shaping both personal conduct and public policy in regard to gambling is: "To what extent is gambling like and unlike other pleasures which have historically been banned on the grounds that they are immoral?" At one extreme some would claim that gambling is like taking hard drugs and should be eschewed on the grounds that it is immoral and banned on the grounds that it is highly dangerous. At the other extreme, people argue that gambling is no more vicious or dangerous than going to the theatre or cinema which was also once much disapproved of by puritans. Rather than discussing these questions fully here, I simply note that to the extent that gambling is both similar to and different from other pleasurable activities to which we devote time and money we will benefit in our thinking about both public and private morality if we accept the demands of consistency in this area, i.e., if we accept that we should take the same position with respect to all pleasures except to the extent that we can demonstrate relevant differences between them. The discussion which follows, therefore, is implicitly though not explicitly concerned that a satisfactory answer can be given to the question: "What are the morally relevant differences, if any,

between gambling and, say, dancing, playing golf (on the Sabbath), watching sexually exciting movies or consuming psychotropic drugs for pleasure?"

To summarise these considerations, then, I shall be here predominantly concerned with the morality of individuals' playing games of chance in commercial contexts where the odds are systematically stacked against them. The paradigm will be games like roulette or slot machine gambling. I shall also be concerned with table games played in casinos such as poker or blackjack where the opportunities to exercise skill are rendered systematically nugatory, as well as with lotteries and other number games like keno and bingo. With respect to most sports- and other event-betting I take it that ignorance of the relevant facts for most punters is sufficient to make the outcome the equivalent to one which is predominantly determined by luck. By contrast, I shall not concern myself with the morality of either professional gamblers who rely on superior knowledge and skill in order to make money or of the suppliers of gambling services who earn their money by offering only games in which the odds always favour the House.

I shall proceed by considering what light may be shed on the first question I identify above, namely how does gambling relate to a general moral theory of pleasure, by considering what light may be shed on this question by the four types of ethical theory alluded to above. Not only does applying these theories illuminate the ethics of gambling but we also learn something about the power of the theories by testing them against the case of gambling.

In general, I shall argue that a strong puritan position—it is always good to deny oneself pleasure—is indefensible. I shall also argue against a weaker puritan position which says that it is wrong to engage in any wasteful and addictive activities of which gambling is clearly one. On the other hand, I do not take the view—though I do take it seriously—that gambling is unconditionally good for one's moral health. Perhaps rather tamely, I conclude by adopting what I take to be an Aristotelian view of the morality of gambling and I hope that this position is sustainable with respect to all those pleasures which have been and continue to be deemed by some to be "vices."

3. MILL, UTILITARIANISM AND VICE

A good place to begin considering whether we ought to refrain from or restrict our indulgence in gambling even if the law does not oblige us to do so is with John Stuart Mill's extraordinarily rich, subtle and sensible Chapter 5 of *On Liberty*. Here he treats of each of fornicating, gambling, drunkenness and drugs. Under the title "Applications," Mill addresses the question of what would happen in terms of actual policy and legislation if his two great principles were adopted by government. The principles are:

- "That the individual is not accountable to society for his actions, in so far as these concern the interests of no person but himself"
- "That for such actions as are prejudicial to the interests of others, the individual is accountable and may be subjected either to social or to legal punishment if society is of the opinion that the one or the other is requisite for its protection"²

Clearly on Mill's view, we cannot outlaw consensual fornication, gambling or self-intoxication. Nor, according to Mill can we subject people who engage in such activities to social sanctions such as ostracism. This is because in an ideal libertarian society, the State makes no attempt to stop people enjoying themselves in whatever way they choose provided only that they do not illegitimately harm others. In such a state anyone may do as they please within the limits of the harm proviso; and in particular, there are no restrictions on indulgence in all manner of pleasures deemed to be vices, no matter how widespread and deeply ingrained the conviction may be that these activities are immoral. But this does not mean, according to Mill, that there are no good moral grounds for refraining from indulgence in vicious pleasures. His felicific ethics as expounded in *Utilitarianism* allow him at least two arguments.

The first is that vicious self-indulgence may be contrary to the principle of utility to the extent that it is self-damaging and conducive for the individual to a preponderance of misery over pleasure in the long run. The second is that fornication, gambling and drunkenness are "lower pleasures" which ought to

MAND VICE

be abstained from in favour of higher pleasures such as enjoying works of great art.

Neither of these reasons is very convincing as they stand. The first turns on matters of empirical fact: for example, will my indulgence in drugs or gambling ultimately lead to the madness and misery of addiction? The answer in at least many cases is "No" and as Mill himself says, "no-one but the person himself can judge of the motive which may prompt him to incur the risk."³ Consequently, the most others may legitimately do is to ensure that "he be warned of the danger."⁴

With regard to the argument from higher pleasures, apart from the well-known difficulty which this notion creates for the utilitarian calculus generally, it is also far from clear that the vices would always fail Mill's own test. This test consists in asking moral or hedonic experts who have experience of both higher pleasures such as reading poetry and lower pleasures such as playing pushpin, which of the two activities afford them the greater pleasure. Unfortunately for puritans, however, plenty of people who thoroughly appreciate Picasso's paintings, nevertheless rate the pleasures of fornication even more highly. (Perhaps Picasso himself did.)

On the other hand, I think both kinds of argument have some force in relation to at least the commonest forms of gambling, namely wagering on mechanical devices like roulette wheels or slot machines. Even non-pathological gambling consumes significant amounts of time and money on an activity which arguably affords no significant intellectual or physical stimulation, which, in other words is literally mechanical and mindless. On a purely utilitarian calculus of maximising personal pleasure it is probably easy for most people to get a bigger bang for their leisure buck. I also think that gambling fares poorly in relation to the question of higher pleasures and that it ought to be possible for most people to get a better as well as a bigger bang for their buck.

However, as far as Mill is concerned, the truth is, I believe, that the logic of his position really supports the hedonistic, "whatever-turns-you-on" permissivism. However, Mill didn't embrace such an ethic himself partly because he was concerned to defend

utilitarianism against criticism from high-minded Victorian moralists but more because he was himself largely in sympathy with their puritanism, at least in relation to traditional vices. He would almost certainly have regarded modern permissivism as decadent.

However, even if Mill's arguments against vices in general are inadequate to shore up a general defence of puritanism against permissivism, there may be some other and better arguments against unrestrained self-indulgence at least in relation to gambling even though these arguments do not support stronger forms of puritanism or a moral requirement for totalitarianism in respect of gambling. Kantian moral reasoning might furnish such arguments.

4. KANTIAN ARGUMENTS AND GAMBLING

The general form of Kantian arguments vetoing particular practices is that one could not rationally desire the world to be a place in which everyone acted in accordance with the principle of conduct which informs the particular practice under discussion. Thus, one could not rationally want the world to be a place where everyone told lies or broke promises whenever it suited them. This seems plausible to the extent that there does seem to be something very like a piece of self-contradiction in asserting: "It would be a good thing if people always told lies when they felt like it" or "Everyone ought to break their promises if they think they will gain thereby." It also seems plausible to claim that there would be something not just bad but mad about someone who asserted without any further explanation that it is just or right for blue-eyed people to be paid much more than brown-eyed people for doing the same job.

The most plausible way in which Kantian reasoning has been used against gambling is by focusing on the fact the whole point of gambling is to distribute property randomly: to make some people richer who have done nothing to deserve it and others poorer simply as a consequence of chance. Allied

to this is the thought that gamblers are people who want something for nothing. A Kantian might then argue that one could not rationally desire a world in which what people possess bears no relation to what they deserve in terms of their natural endowments, the talents they cultivate and deploy, theft industry and/or their general contribution to the welfare of society.

One objection to this line of reasoning would be a sort of socialist argument which pointed out that, as a matter of fact, property in society mostly has been and mostly still is distributed according to accidents of birth. It might then be further urged that it would be much fairer and perhaps less divisive if, instead of allowing people to inherit wealth (and otherwise benefit materially from fortunate accidents of birth), differences in at least unearned wealth should be entirely determined by a literal lottery rather than the so-called "lottery of life."

This is perhaps fanciful. A more down-to-earth objection to the Kantian anti-gambling argument is to deny that gambling is all about wanting something for nothing. On the contrary, it may plausibly be urged, gambling is merely a pastime in which some people take pleasure and for which they are willing to pay in the form of the losses which they incur as a result of the fact that the odds are set, to a modest degree, against the player and in favour of the House. Surely, there is nothing irrational about the principle that people should be able to spend their own time and money on entertainments of their own choosing. . . .

There may, however, be a more persuasive and subtle argument against at least the forms of gambling whose paradigm is the gambling machine. This argument is usually couched in Kantian terms and suggests that gambling is an anti-rational activity which runs counter to our character as autonomous agents and, in some sense, requires us to surrender our freedom of will, something which it can no more be rationally right to do than to choose to submit to a condition of slavery. It can, however, also be articulated in utilitarian terms, employing Bentham's notion of the importance of the fecundity of pleasures and pains in doing the felicific calculus as well as noting the role of the principle of diminishing returns. On this view, we should judge pleasures and pains in respect of their

propensity to spawn other pleasures and pains, as well as in the tendency of pleasures to grow stale on us the more we indulge in them.

Thus, the kinds of reason that one is intuitively most disposed to urge against regularly gambling on slot machines is that it is a vapid, pointless and mindless activity. As such, it may actually undermine or degrade the intelligence, given that there is no skill involved and that perhaps one becomes inveigled into deceiving oneself into believing that one may actually win in the long run. From a Kantian point of view, this may be thought to be inconsistent with living as a fully rational and autonomous human being. From a utilitarian point of view, it is at least a waste of time and money which could be more usefully employed. It may also actually blunt one's capacity for more profound pleasures.

The difficulty with this line of reasoning is partly that so are many of the other activities—playing *solitaire*, watching soap operas, etc.—which human beings divert themselves in their moments of leisure in the interval between birth and death. It is not obvious that it is more *rational* to spend time listening to Beethoven rather than playing roulette. On the other hand for many people who enjoy gambling, Beethoven's music sadly remains mere noise no matter how sincerely they attempt to appreciate it. What is obviously true as a matter of fact is that lots of people actually do get a lot of pleasure from gambling, that it does them no harm, and that they get as much benefit from it as others (such as Wittgenstein) get from other forms of recreation such as reading thrillers.

Of course, any time or money whatsoever which we spend on enjoying ourselves could in principle be used to improve ourselves or the lot of our fellow human beings, often in a manner that would be required of a fairly narrowly construed felicific calculus. Perhaps this means that we should regard gambling as indeed but one among many available diversions. However, in this case we might say, with Pascal, that any diversion which serves to distract us from the business of contemplating our ultimate destiny and thereby learning the truths which are necessary for the salvation of our immortal souls is *eo ipso* sinful. This brings us directly to a consideration of

the religious case against gambling and secular versions of the same case.

5. PURITAN ARGUMENTS AND GAMBLING

The view that all indulgence in worldly pleasures is immoral is associated with the more fundamentalist and ascetic strands of all religions. It has a secular counterpart in the views of people who ascribe to political commitment the same importance as others ascribe to religious faith: the pursuit of private pleasure distracts from the work of establishing the political kingdom of heaven. An interesting, if eccentric, puritan view about gambling is to be found in Freud's claim that gambling is really a substitute for masturbation and, as such, an impediment to achieving the ideal of full genitality.

It is perhaps also worth mentioning that some people are puritanical about some pleasures on grounds that are more akin to aesthetic than moral ones. Very obviously people have objections of this kind to all sorts of sexual practices probably preferring to describe those who engage in them as disgusting rather than wicked. It is certainly true that many people who disapprove of Las Vegas would now be inclined to describe it as a monument to crassness and vulgarity rather than as a den of iniquity.

It must be conceded that by far the most common objections to gambling come from people who are in principle opposed to it on religious grounds which they take to possess the self-evidence of revealed truth. Typically they feel the same about sexual activity outside marriage as well as about getting drunk or high. Since, in the nature of the case, puritans tend to appeal either to contested authority or to faith or to taste, it is not clear what arguments could effectively be urged against them. Clearly, they would be right if in fact it turns out that those who indulge themselves in certain kinds of pleasure are going to suffer greatly after they are dead while those who abstain receive great blessings. But this seems equally clearly to be in the

realm of the publicly unshowable even if it is not strictly unknowable.

Against puritanism one can urge but not demonstrate that pleasure is always a good and, as such, always a good *prima facie* reason for action. Thus, if there is anything morally wrong about indulging in any alleged vice, this cannot be a function of the character of the pleasure it offers, let alone of the fact that it offers pleasure at all. It is difficult to see how gambling could be rationally adjudged immoral merely on the grounds that people enjoy it. Like any other activity in which people take pleasure, if it is immoral this must be because of its propensity for corrupting character or otherwise doing damage to those who engage in it or to others. This must be to a significant extent an empirical issue and on this the evidence seems to be that in most cases gambling does not do any harm including harm to people's character.

A much more persuasive basis for arguments against dissipation of all sorts derives from the idea of stewardship. Here the religious version claims that our minds and bodies, our time and our talents, are all gifts of God. We are the stewards of our lives and our nature is such that we can only find true fulfillment and happiness by living in a manner befitting the creatures of God. We do this by attending to the workings of divine grace within us and engaging in works which are pleasing in the sight of our Creator. At all events we should not squander our lives in trivialities and we should acknowledge that a life given over to self-indulgence is an ultimately unsatisfying one.

The secular version of the stewardship argument sometimes appeals to the general economic well-being of society which allegedly requires a good deal of self-denial. More generally it appeals to our alleged obligations to future generations. In its simplest and, I think, strongest form it asserts that this life is all we have. Consequently, we should do everything in our power to ensure that we live it as well as we can and do not waste the only chance at living which we shall ever get.

Thinking in either of these ways enables us to make sense of what people have been getting at in their hostility to drugs, gambling and promiscuity. In each case a plausible argument can be made for the view that loveless sex is not a right use of the body,

that consigning one's property to chance is improper stewardship of one's possessions, and that altering one's state of mind with chemicals is an abuse of one's mind. Arguments of this kind will never be decisive but that does not mean they are without rational force. And the force of these stewardship arguments is to alert us in what may be a very salutary way to the dangers of squandering our lives. It does not, however, support the view, nor is it usually taken as supporting the view, that any particular pleasures are in themselves wrong, including gambling.

6. EUDAIMONIC ETHICS AND THE PLACE OF PLEASURE IN THE GOOD LIFE

At this point I think the stewardship argument becomes part of what I take to be the most convincing of all ethical theories, namely what I call eudaimonic ethical theory which most explicitly characterises Greek ethical thought but which is also at the basis of all moral systems which derive from religious creeds or secular belief systems such as Marxism or Psychoanalysis. The fundamental tenet of this kind of theory is that the answers to ethical questions are to be found by discovering what is the best kind of life that a human being can lead. Here the best kind of life is understood as the one which is most conducive to true inner well-being or happiness. This may be thought to have a different answer for different people or a general answer which is true for everyone. It is also clear that there are many different views about what constitutes the summum bonum or supreme good for human beings.

The great strength of such theories is that they make all ethical judgments ultimately a matter of enlightened self-interest and thus render the facts about human nature and human experience crucial for determining how we ought to live. In technical terms, it is analytic that one ought to live the best possible life of which one is capable and it is also analytic that the best possible life is the one which most conduces to eudaimonia or true happiness.

If this line of reasoning is to be helpful in answering the question: "Is gambling immoral?" we need to ask the question which is asked by the Greeks in a self-consciously philosophical way and to which all religions and secular ideologies offer (usually dogmatic) answers, namely: "What is the role of pleasure generally and of individual pleasures specifically in the life of a truly happy man?"

At this point I want to claim that, in general, the view of Aristotle is superior to that, not only of later religious puritans, but also to that of other secular philosophers in both the ancient and the modern worlds. For Aristotle, pleasure is indeed an important part of the best kind of life which a human being can lead, as is wealth. A life in which there is no fun can no more be accounted a happy life than a life of grinding poverty.

But pleasure, like money, is not the only ingredient in a truly happy human life nor is it the most important ingredient. And indeed a life which is exclusively devoted to the pursuit of either pleasure or money will not be a happy one. Hence the famous doctrine of the golden mean which in this case would require finding the right median course between the opposing vices of an excessive asceticism, on the one hand, and of hedonistic over-indulgence on the other.

Obviously for many people gambling will not be an important source of pleasure in their lives. But for those who do derive significant pleasure from gambling, what Aristotle defends in respect of pleasure generally seems to be a sensible view to take in respect of gambling. This is the Delphic injunction: "Nothing in excess."

The virtue of temperance which this maxim recommends is one which it is highly plausible to see as an essential ingredient in living the best kind of life of which we are capable, especially in respect of the commonest sources of pleasurable recreation. Not only does temperance obviously avoid the dangers of addiction but it is not unreasonable to suppose that it issues in a life which is better than one of total abstinence. Thus it may in fact be the case that more people who drink in moderation, have temperate sex lives, and even enjoy the occasional game of chance have lives which are not only more enviable but also more admirable than those who eschew all such pleasures. Their obvious advantages over both

the hedonist and the ascetic is that their wants are tempered to their ability to satisfy them. Moreover, they do not find themselves in the condition of permanent tantalization which Schopenhauer believed to be our natural lot.

At least this is a way I can imagine we might talk to our children about "adult pleasures" with honesty and helpfulness.

7. CONCLUSION

I want to conclude by first trying to express as forcefully as I can what I take to be a synthesis of all the anti-gambling views we have considered from all philosophical standpoints and then to say some things which seem to me to be relevant to a defence of gambling against these charges.

The worst that can be said about the sort of gambling which is typified by repetitively inserting money into gambling machines is that as a way of spending time and money it is mindless, anti-social, boring, dehumanizing, vulgar, ugly, degrading, depraving, cretinising, soul-destroying, feckless and stupid.

Against this need to be set a number of considerations which relate to why people actually engage in this activity and what the actual effect on their character may be supposed to be.

In the first place people who spend money on gambling are buying three distinct kinds of product. The first is the pleasure of play. People play pinball machines and table games pretty much as they play pinball machines or games of patience. Precisely because it is not intellectually or physically taxing, some people find this an especially relaxing form of amusement. It is hard to make a serious moral case against indulging in the pleasures of playing games for recreation or entertainment. Secondly, people who gamble on machines which offer large jackpots, who buy lottery tickets or do the pools are really buying (through theft losses) fuel for their fantasies of getting suddenly and fabulously rich beyond the dreams of avarice. In itself this puts gambling in the same morally trivial category as other forms of innocuous escapism such as watching soap operas or reading sex-and-shopping novels. From one

point of view, indeed, buying a lottery ticket may not only be a harmless form of escapism but also a rational investment. For the poor who have no other prospect of ever becoming really rich no matter how hard they work, it is better to have a very remote chance of attaining great wealth than no chance at all. Thirdly, people pay for the ancillary pleasures they associate with gambling—the conviviality of the bingo hall or the betting shop, the glamour of the casino or the racetrack, and in all cases the defence against loneliness. This seems to be not just harmless but positively benign.

We should perhaps also consider the view that gambling may actually be good for the character. Perhaps gambling accustoms us to sit more loosely than we otherwise would towards money and material possessions and this may be morally desirable. Perhaps, too, gambling inculcates the virtues of courage, equanimity, and graciousness in adversity and good fortune alike. . . .

In some ways it would be nice to conclude with the suggestion that not only is gambling generally good for the moral character but that gambling for very high stakes is particularly likely to develop moral heroism. The truth of the matter, however, is almost certainly much duller. This is that for the vast majority of people who engage in it gambling has no significant impact on their moral character at all. Moreover, when it appears to, it is more likely to be an expression of character traits which for better or worse are already established rather than being the cause of the emergence of new vices or virtues which otherwise would not have developed.

If this is so, then it looks as if the truth about gambling is that, despite all the passion which continues to inform the attacks of opponents of gambling, it is in fact for the most part a morally trivial issue. What is of course not morally trivial is that no one ought to devote too much of their time, their talents, their energies and their resources to activities which are morally trivial, and that includes gambling.

NOTES

1. Amongst the articles which have addressed recently this issue, the following deserve mention: Barrett, Will: "Gambling and Public Policy" *Public Affairs Quarterly*. Vol. 14, No 1, January 2000; Lorenz, Valerie. C: "Gambling" in *Encyclopaedia of Applied Ethics*. San

Diego Academic Press. 1998; Newton, Lisa: "Gambling, A Preliminary Inquiry." *Business Ethics Quarterly*. Vol. 3. Issue 4. 1993. Murphy, Jeffrie. "Indian Casinos and the Morality of Gambling." *Public Affairs Quarterly*. Vol. 12. Jan 1998. Versions of all the anti-gambling arguments discussed here can also be found in a form which repays philosophical analysis in MacKenzie, W. Douglas: *The Ethics*

of Gambling. (4th Edition). The Sunday School Union. London 1899.

2. J.S. Mill: *On Liberty*. (1859) Everyman's Library Edition Edited by H.B. Acton. 1910. New Edition. 1972. pp. 162-3.

3. *Ibid.*, p. 165.

4. *Ibid.*

READING QUESTIONS

1. What are the three standard components of gambling according to Collins?
2. Explain the two ways in which investing in the stock market is different from gambling. How does Collins distinguish between social and commercial gambling?
3. Explain the utilitarian and Kantian arguments against gambling. What objections does Collins raise against each of these types of arguments?
4. What is the stewardship argument against gambling?
5. What should the role of pleasure be in the life of the happy man according to Collins?

DISCUSSION QUESTIONS

1. Collins briefly considers how gambling is like or unlike other pleasures such as taking drugs and going to the theater. Are there any pleasurable activities Collins fails to consider? Discuss some of the differences and similarities between gambling and these other pleasures.
2. What should the role of pleasure be in a good life? Should we agree with Collins that gambling in moderation is a pleasurable activity that is morally permissible in a happy life?

DAVID B. FLETCHER

Gambling and Character

Fletcher presents five arguments for the claim that gambling is morally objectionable, all of which focus on the negative effects of gambling on one's character. Fletcher's position therefore contrasts sharply with Peter Collins's virtue-based defense of gambling.

Recommended Reading: virtue ethics, chap. 1, sec. 2E.

From David B. Fletcher, "Gambling and Character," *International Journal of Applied Philosophy* Vol. 17, no. 1 (Spring 2003): 1-15.

"Seven deadly sins. One convenient location."
—Las Vegas Advertiser¹

Is there any inconsistency in a champion of moral virtue being a high stakes gambler? In May 2003, William Bennett—conservative commentator, former government official, advocate of ethical reform, and author of such best selling titles as *The Book of Virtues*—admitted to large-scale gambling after reports surfaced that he had lost as much as \$8 million in casino gambling in the past decade. Earnings of as much as half a million dollars from speaking engagements in which he extolled virtues and excoriated vices were funneled into the coffers of such casinos as Caesars in Atlantic City and the Bellagio in Las Vegas. Bennett defends his gambling and states that "it's never been a moral issue with me."²

Is Bennett correct that it is not inconsistent to gamble while preaching virtue, or is gambling, in fact, morally problematic? Legalized gambling has been expanding exponentially in American society in the past few years to become a highly prominent feature of our social landscape. While it has all the hallmarks of a large-scale moral and social concern, remarkably, philosophers have paid scarce attention to the moral issues surrounding this phenomenon. Despite the fact that gambling historically has been regarded as immoral in American society, or perhaps in part because of this fact, today's moral and social philosophers have given the topic wide berth.

About a decade ago, philosopher Lisa Newton referred to the "tradition of moral censure of gambling"³ and wrote what announced itself to be a "preliminary inquiry" on the subject of gambling considered from the standpoint of applied ethics, an attempt "to provide an account of the blameworthiness of gambling itself."⁴ At that time, she reported that she was only able to locate one article on the ethics of gambling. Philosophers, indeed, have not added significantly to that number in the decade that followed, and I believe that this neglect is unjustified. While much could be said about gambling from the perspective of *social* ethics, I here seek like Newton to give an account of the moral status of gambling itself. I wish however to avoid the temptation to give a "thin" account in simply categorizing gambling as "permissible" or "impermissible"; instead, I will

attempt to assess the impact of this practice on character and the moral life.

In terms of its scale and social impact, gambling is indeed worthy of the attention of moral philosophers. "From 1974 to 1994—20 years—the amount of money Americans legally wagered has risen 2,800 percent, from \$17 billion to \$482 billion."⁵ Gambling revenues are \$60 billion per year, up from \$1 billion in 1980. This comes to a figure of \$164 million dollars *per day* spent on gambling.⁶ Today's figure is a sum greater than the Federal government spends on Medicare and Medicaid combined.⁷ Amazingly, as PBS's *Frontline* reports, "Gambling generates more revenue than movies, spectator sports, theme parks, cruise ships and recorded music combined."⁸

*The Gambling Impact and Behavior Study*⁹ has estimated, using DSM-IV criteria developed by the American Psychiatric Association, that 5.5 million Americans are problem or pathological gamblers, and another 15 million are deemed to be "at risk." The rate of at-risk gambling among 16- and 17-year-old children is twice the adult rate. The study estimates that problem and pathological gamblers "cost society approximately \$5 billion per year and an additional \$40 billion in lifetime costs for productivity reductions, social services, and creditor losses."¹⁰ In light of the staggering impact on individuals, families, communities, and the nation, truly it is high time that philosophers turn their attention to gambling. . . .

No observer of moral philosophy in the past two decades can miss the impact of the renewed perspective of virtue ethics, although the development of this perspective in areas of applied ethics still is at a underdeveloped stage. One way to do applied virtue ethics is to evaluate types of action in terms of their impact on character. Joel J. Kupperman defines character this way:

X's character is X's normal pattern of thought and action, especially with respect to concerns and commitments in matters affecting the happiness of others or of X, and most especially in relation to moral choices.¹¹

While the subject of character is complex, it at least can be said that an individual must possess practical rationality and an adequate set of virtues to have a good character and be a morally well functioning individual. I contend that gambling either directly harms the character of the gambler or puts it at significant

Sunday School Union.

Everyman's Library
New Edition 1972.

How does

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no. 1 (Spring 2003):

risk. Since individuals ought to safeguard and develop their character, they should avoid gambling. While gambling may not be without its benefits, these are not worth the negative impact on one's character. . . .

Now to turn to the question whether or not gambling is indeed "an addictive vice that degrades character." Which aspects of character are jeopardized by the practice of gambling, and to what extent? Apparently, the effects on character are variable with the individual, depending on one's moral stamina, the extent to which one gambles, and other factors. Even gambling foe William Temple could argue that "gambling is not necessarily a practice springing directly from an evil character; it is compatible with a high level of moral attainment."¹² I would argue, however, that gambling typically and frequently impairs the character of many gamblers in the following ways: A) injures self-control; B) involves greed; C) is careless with money; D) cultivates indifference; and E) compromises practical rationality.

A) Self Control—The excitement that gives gambling its appeal raises questions about its effect on character. The gambler is truly a "player," and gambling is a form of play, often of an intense nature. But play, of course, can be good. Is there a respect in which the play of gambling is morally objectionable?

R.H. Charles roots the appeal of gambling in "man's (sic) inherent love of sport or adventure."¹³ Part of the tremendous appeal of gambling owes no doubt to its value as a form of entertainment. Gambling's supporters have long defended it in terms of this value, and today its promoters refer to the "gaming-entertainment industry."¹⁴ Early in the twentieth century, William Temple expressed, but did not hold, the view that "If a man can afford it why should he not spend, or risk, his money on the pleasure of that excitement as another spends his on going to a concert or a play?"¹⁴ Or, as another early twentieth century writer put it, "I am convinced, therefore, that within limits indulgence in gambling is legitimate. . . . [I]t fills legitimately enough a humble position in the economy of our lives, side by side with the watching of football matches and the attendance at picture houses."¹⁵

Is gambling a vice, or an innocent amusement? Can a moral difference be shown to exist between

spending money on entertainment, such as dinner and a play, and betting and losing the same amount of money at a casino?

Among the "traditional arguments" for the immorality of gambling that Richard Lippke rejects is one based on "the lingering cultural reluctance to defend activities simply because individuals find them enjoyable," which he sees as an American ambivalence about "individuals just having fun."¹⁶ Whether Americans are as dour and joyless as Lippke suggests, and whether our centuries-old discomfort with gambling is mere Puritanism, I believe that the particular form of entertainment represented by gambling argues against its innocence.

The gambling opponent does not, as Lippke suggests, object to the fact that gambling is fun, but *how* it is fun, that it involves a sort of fun that is hazardous to the moral life. One does not need to be puritanical to realize that fun can be bad, as seen in the examples of the fun had at a cockfight, as a voyeur, or on a destructive spree. Fun can be faulted morally if it is obtained at the expense of the suffering of others, or in violation of their rights, or in violation of other moral duties. In those cases, part of the objection to the fun is that one not only takes part in an objectionable activity but that one enjoys it and finds fun in it. Such enjoyment itself can be grounds for moral disapproval. Likewise, there are moral perils in the fun of gambling. The enjoyment obtained in gambling is worsened morally by the intensity of an enjoyment that works against prudence, restraint, and self control.

Gambling advocate David Spanier complains that "the individual pleasures and psychic rewards of gambling have been generally underappreciated," and cites a number of such benefits.¹⁷ Foremost among these for Spanier is "the action." For Spanier the term "entertainment" would be too mild for the excitement he finds in the activity. Spanier informs us that the commonplace phrase "Where the action is" used to denote excitement and pleasure from gambling, derives from a 1947 story by Damon Runyon. For Spanier, "Action expresses, in a word, the whole gambling experience." But what is meant by "the action"? For Spanier, "It means playing with chance, taking a challenge, the excitement of living in top gear. In gambling, this is the payoff."

Spanier's description of the pleasures of being caught up in casino gambling is lurid and revealing enough to quote at length:

The gambling games offered by casinos act like a drug. It's part physical, part psychological, highs and lows, over and over, in rapid succession. These fluctuations of loss and gain, the glint of light and action, awareness of other people gambling, the sense underneath it all of playing with risk, of living on the edge of danger, are exciting. This is what the expression "getting the adrenalin going" means. The physical sensation—dryness in the throat, sweaty palms, butterflies in the stomach, the feeling of every nerve on full alert—is, for many people, highly pleasurable. Some psychologists have suggested a parallel between gambling and sexual excitement: build-up, climax, release of tension, repeated over and over. There is no need to press the analogy too far to make the point that gambling carries a strong emotional charge.

Spanier notes that casinos carefully calculate how to enhance this pleasurable experience and to keep everyday reality at bay:

To increase the sense of indulgence, of fantasy, of losing hold of reality, casinos create an ambience far removed from the surround of ordinary life. No clocks. No daylight. Seductive lighting. Flashes of surreal color. The whirl of the slots. The beat of music, pulsing under the noise of greetings, shouts, ringing jackpots, whoops from the winners. Drinks on the house—"Keep 'em coming, baby!"—and on every side, the half-open sexual turn-on of cutey-pie dealers in party dress or cowboy gear. What a heady, glamorous mix! How can anyone long resist it? All of it designed to disorient the gamblers and keep them playing. The whole operation driven—this is most important—by easy credit. "Another 2,000, Mr. Ashuro, just sign this slip, sir."¹⁸

Is there anything wrong with the sort of fun in which Spanier revels? Can the "entertainment argument" justify the expenditure of money for that sort of enjoyment? Compare the pleasure of gambling with the pleasure of attending a play, as in Temple's example. At the theater, one is entertained, perhaps, but not in a way that is a simple waste of time. The entertainment is in a context of an experience in which one enters imaginatively into the world of strangers and their lives, experiences empathy, and

is enriched. Similar benefits can be obtained from attending concerts, films, and having dinner with friends. Any impact that such entertainments might have upon character is likely to be at least neutral if not positive.

However, at the gambling table, the pleasures obtained are not personality-enriching enjoyments but the thrills of the danger that one might lose one's property and of the hope of obtaining that of others. It is the enjoyment of leaving one's welfare and that of others to chance, of seeking "unrealistic" goals as Campbell tells us, "bucking the odds and finding excitement in doing so."¹⁹ The thrill of gambling is a delight in irrationality and placing valuables at unnecessary risk. Borna and Lowry criticize the irrationality of the gambling experience. For them, to gamble is

[T]o will not to have a will [which] is similar to getting drunk where the individual temporarily yields the control of his reason, affections, conscience, and thus prostitutes his nature for the pleasure of getting drunk.²⁰

In a similar vein, the prominent legal philosopher Lon Fuller has argued that gambling ought to be legally prohibited because it is "a form of conduct unbefitting a human being with rational capacities," and contends that while the law cannot compel a person to live rationally, it can "seek to exclude from his life the grosser and most obvious manifestations of chance and irrationality."²¹

I would submit that engaging in risky, irrational behavior in the attempt to gain control over another's property, and finding excitement in it, is objectionable. It is also hazardous to the moral life to engage in such activity in a context in which one is inclined, even encouraged, to lose sight of the implications of what one is doing.

Not surprisingly, enjoyment of this nature can be addictive. As the National Gambling Impact Study has found, "Pathological and problem gamblers are much more likely than low-risk gamblers to gamble for the excitement." Such gamblers number about fifteen million Americans, mostly male and a disproportionate number African-American, who "are more likely than other gamblers or nongamblers to have been on welfare, declared bankruptcy, and to

have been arrested or incarcerated." These gamblers cost society financially, as noted above, but as the study noted, "these calculations are inadequate to capture the intrafamilial costs of divorce and family disruption associated with problem and pathological gambling."²²

While most gamblers do not become addicted, a great many do, and the gambler is both running a risk of doing so and contributing to a system in which this might befall others. Because the damages of addiction are so great for the individual, her loved ones, and others, gambling would seem to be out of place in a well-lived life.

B) Greed—It is paradoxical that the gambler may be both casually irresponsible with his own money and greedy for money he does not have. Most commentators agree that the desire to win money is a major component of gambling. William Temple expresses the objection in religious terms when he states, "The persistent appeal to covetousness is fundamentally opposed to the unselfishness which was taught by Jesus Christ and by the New Testament as a whole." Besides traditional religious opposition to greed, it has been condemned by philosophers at least since Aristotle.

C) Indifference to Others—Gambling is inconsistent with an appropriate concern for the welfare of others, whether it is those to whom one is financially responsible or those against whom one is playing. Because gambling is a zero-sum game, one can only win if another loses. If the gambler is to win she gains property at another's expense. This is more obvious in wagers between individuals, as opposed to lottery and casino gambling. R. H. Charles alleges, "The real interest of the gambler is to get hold of his neighbour's property, and make no equivalent return."²³ Temple states, "The attempt (inseparable from gambling) to make profit out of the inevitable loss and possible suffering of others is the antithesis of that love of one's neighbor on which our Lord insisted."

While the gambler has so little regard for the stranger that he wants to "get hold of his... property, and make no equivalent return," he damages most directly the interests of his family and others of his immediate circle. Lisa Newton considers and rejects the argument that gambling is wrong because of the

harm it inflicts on one's own circle. She admits that "others are surely injured" and recognizes "the miseries of the gamblers' families and friends as they struggle to survive themselves, cover for the gambler and pay the debts."²⁴ Yet, she argues, this regrettable situation does not support a charge of immorality for two reasons. First, these individuals do not suffer a "violation of their rights," since, in some sense, they remain in their situation voluntarily. Second, she argues that there is really no injury to these individuals, since

Whatever the peculiar mental anguish of the gambler's family, the only material damage they suffer is impoverishment, and they might suffer that from any number of causes (if the family breadwinner is laid off from work, for instance), without anyone thinking an injury has been done.

Newton deals too cavalierly with what the National Commission lamented as the "intrafamilial costs of divorce and family disruption" associated with problem gambling. Newton's first claim is that the psychological and financial damage that gamblers do to others is not a wrong, and not a rights violation, since in some sense those others "accept the situation overall and voluntarily remain in it—*voluntas non fit iniuria*." Yet, as a general principle, we do not accept that A may freely harm B as long as B fails to absent himself from the situation. No doubt victims of domestic abuse are well advised to get free of the relationship and seek shelter and help, but should they fail to do this, the abuse does not somehow become "consensual" and therefore permitted. Similarly, a man who learns that his wife is gambling away the family resources is being wronged, and she is morally guilty.

In any case, Newton's argument only bears on those cases in which the victims of the gamblers' losses are consenting adults who are aware of the gambling and the losses. It doesn't begin to address the wrongs done by gamblers who conceal their activity, nor those injuries done to children. Among the most obvious young victims are those identified by researcher Earl L. Grinols when he notes that "it is not uncommon for problem gamblers to abandon their young children in parked automobiles or casino lobbies for hours and even days as they gamble."²⁵

The second part of Newton's argument is that the financial ruin that the gambler brings upon the family is not grounds for a moral objection, since ruin can come in many ways other than gambling. This is a peculiar argument because it is so vulnerable to counterexamples. For example, we might say that a company that pollutes the local water supply and causes cancer to a local residents has done no wrong, since they could have contracted cancer or other serious illnesses in many other ways as well.

In her example, Newton compares the gambler's loss of family resources to a similar loss resulting from an involuntary layoff from work. Clearly, though, those cases are markedly different, as the gambler has brought about the losses by her voluntary action, while the laid-off worker is a victim that is in no way responsible for her woes. I conclude that the gambler who loses money needed by the family has wronged her family, particularly so if the family members are unaware of the losses, or if they are children.

D) Disregard for Money—Gambling is the textbook example of what can be called poor stewardship of one's resources. Again, William Temple puts the issue in religious terms when he says, "To risk money haphazardly is to disregard the insistence of the Church in every age of living faith that possessions are a trust, and that men must account to God for their use."

Concern over the poor stewardship involved in gambling can also be expressed in nonreligious terms, in terms of responsibility to society and the state rather than to God. Lisa Newton has objected to gambling that it is an "egregious violation" of the duty of stewardship.²⁶ Newton offers what she calls "a secular version" of the traditional theistic argument, based on the "strong social interest" that applies to the way members handle their property. This interest requires us to spend money on things we might not want, such as casualty insurance, and prohibits us from purchasing things we do want, such as controlled substances and non-approved medications. It also requires that we maintain our property "in accordance with zoning and other regulations." There is a "strong state interest in the

management of property as a whole," which, in general, is only opposed by "diehard libertarians." As a further attack on the libertarian defense of gambling, she notes that those who bankrupt themselves will require welfare assistance at taxpayer expense

Newton's stewardship argument has met with opposition in the literature. Richard L. Lippke has objected that her argument "seems to overstate society's interest in the care and conservation of property," particularly in societies that are above a subsistence level. He argues that "it is no longer the case that risking any measure of property through gambling places individuals, families, or communities in jeopardy."²⁷ Similarly, Will Barrett would apply her argument "only on occasions where relatively large amounts of property are being placed at risk, without being reduced to absurdity."²⁸

Does society have an interest in the gambler's financial irresponsibility? Gambling small amounts of money in the course of a year may be unwise, but it is unlikely to affect society for the worse, and perhaps it would even benefit the state since gambling revenues are taxed. However, for many individuals, including the over twenty million adult problem gamblers, gambling is poor stewardship indeed and entails costs far beyond any value gambling yields to them. Gambling as a whole is poor stewardship for the country, not only in the fact there are far better uses for \$60 billion, but in the many millions spent to deal with problem gambling. The stewardship argument, properly considered, has force, even in its secular version.

E) Practical Irrationality—To gamble one's resources in the hopes of winning money is unwise, and the reliance on luck so characteristic of gamblers is an abdication of reason. The glorification of chance is criticized by W. Douglas Mackenzie, who argued that in gambling the individual yields the control of his reason to chance, and hence betrays his nature as a rational being.²⁹ Charles condemns the appeal to chance in the strongest terms:

Since, then, gambling is essentially an appeal to chance, or the element of the irrational and unknown in life, it follows that gambling belongs intrinsically to the savage or uncivilized type of character.³⁰

In the highly routinized world of the "organization man" or woman, some gambling advocates would find much to applaud in this appeal to the "uncivilized." What we have called the irrationality of gambling is celebrated in a fascinating existential argument for gambling offered by Felicia Campbell based on insights from Karl Jaspers.³¹ Jaspers had said, "whenever people are reduced to the position of those who merely have to perform an allotted task, the problem of the cleavage between being a human creature and being a worker plays a decisive part in the individual's fate."

It is just such an alienated worker who, for Campbell, can find an opportunity for self-expression in gambling. Her argument is reminiscent of the ruminations of Dostoevsky's *Underground Man*, who rails against social expectations to such a degree that he refuses to see a doctor when ill, because that is what a reasonable person would be expected to do. Campbell argues that gambling offers "brief freedom from an unrewarding occupation," providing an opportunity for alienated people to seek adventure and uncertainty and to engage in decision-making that affects their lives. For her, gambling is "striking out" motivated by the "preservative impulse," an impulse necessary for "the preservation of the self." By gambling "the individual strives to sustain energy and courage." To gamble is to engage in adventure.

However alienated she might be in her workaday world, in gambling the player can pursue "the wooing of the unknown, chance, danger, and all that is new." Gambling satisfies the "need to get out of line," rebel, and provides an "artificial crisis," which enables a person "to function fully in the moment." Gambling is

[A] means of surmounting impotence, of feeling that he has a hand in his own destiny. Having little opportunity for decision making in his job, he feels that if he wins he has in some way controlled his world; if he loses, it is simply a tough break.³²

Campbell's arguments are interesting because they seek not merely to excuse or defend gambling but to commend it, at least for a certain category of impotent, alienated worker. For Campbell, the impulse to gamble is life affirming, an opportunity to make up

for what is lacked in terms of excitement, autonomy, and interest.

This is not the place to take up the empirical claim implicit in her argument, that there are many people who find their work lives wretched and who presumably find no extracurricular outlets in family, avocations, religious activity, and community involvement. I would like to counter, however, that gambling is an inappropriate way to deal with the existential crisis of work-induced wretchedness. If one feels like a "loser" in one's life, it would be unwise to seek escape in an activity in which one is exceedingly likely to have that status powerfully reiterated.

Will Barrett argues that "Gambling with the primary aim of winning is irrational when the long term odds are less than half, just because they are less than half."³³ He also believes that someone knowing the odds against increasing her property in gambling who yet gambles for that purpose exhibits "a failure of practical reasoning," while a person who gambles an amount she can afford knowing that winning is a "mere possibility" is not guilty of such irrationality.³⁴ "The failure of rationality is built into the activity."³⁵

However, for Barrett there may be "peripheral reasons" for gambling, fitting into the three categories of "excitement, sociability, and business and related entertainment." To gamble for those reasons, with no real hope of gain, is not irrational (although it is not truly gambling, many gamblers would add).

The irrationality of gambling as a way to realize a return on investment is argued by James Walsh, who states:

All forms of legalized gambling are bad investments. The odds for most games are slanted in favor of the casino. But people are drawn to casinos and other betting outlets in growing numbers. Buying a lottery ticket is just about the worst investment anyone can make. The odds against winning anything substantial are astronomical.³⁶

In gambling, the worker, oppressed by economic actors far larger than herself, loses again to the very oppressors to whom she owes her problems, large corporations and the government. The average casino gambler spends almost \$600 in a casino visit

and usually leaves with nothing,³⁷ while the casinos themselves, divisions of major Fortune 500 corporations such as Park Place Entertainment, MGM Mirage, and Harrah's Entertainment, make a staggering profit. Park Place Entertainment, the highest earning casino company in the country, posted 2001 sales of \$4,631,000,000, while MGM Mirage earned \$4,009,600,000. The gambler would be well advised to find a means of self validation that is more likely to achieve its goals and not work directly contrary to them.

At the extreme, gambling can create its own problems significant enough to encourage suicide. In a grim echo of the film, *Leaving Las Vegas*, sociologist David Phillips and his associates studied the connection between suicide and gambling. They found that suicide accounts for only .97 percent of all visitor deaths in the other American counties they studied, yet in Las Vegas it accounts for 4.28 percent of visitor deaths. Las Vegas has the highest suicide rate in the United States, both for visitors and for residents, including gamblers and others affected by their gambling. Phillips and his collaborators report that

In general, visitors to and residents of major gaming communities experience significantly elevated suicide levels. In Atlantic City, abnormally high suicide levels for visitors and residents appeared only after gambling casinos were opened. The findings do not seem to result merely because gaming settings attract suicidal individuals.³⁸

Campbell's defense of gambling is based on the idea that it increases the autonomy of the oppressed worker. However, in reality it damages autonomy, since as Barrett argues,

People who choose irrationally fail to act in the light of beliefs they would have if they were better informed, and if they persist in choosing irrationality in the face of evidence that their desires will not be satisfied, do not act autonomously.³⁹

Barrett argues that "being irrational often undermines a person's capacity for freedom of choice."⁴⁰ Thus, gambling undermines the practical rationality needed for autonomous living and strikes a telling blow against character.

V

Gambling is among those behaviors traditionally considered "bad habits" or "minor vices" in this country, according to historian John C. Burnham.⁴¹ Among Protestants, at least, gambling trifled with God's will in its reliance on chance and showed a casual attitude toward property and was associated with "idlers who were unproductive and got into other mischief as well."⁴² At least in English speaking societies, gambling has been at best a "guilty pleasure," publicly opposed and privately tolerated to an extent. Gambling can still bring disgrace or disapproval to a Pete Rose or Michael Jordan, and gambling scandals can rock such preeminent institutions as Northwestern University, yet social condemnation seems to be on the wane. Although only just over a decade ago, some form of gambling was legal in only two states, today, only two states forbid it.⁴³ Today's older adults, according to psychologist Dennis P. McNeilly, have "seen gambling change in our society from something considered a sin or a vice to mainstream entertainment and socially acceptable."⁴⁴

In this essay, we have attempted to indicate certain aspects of gambling that seem to injure character and interfere with a well-lived life. We have seen how the sort of excitement and pleasure it offers works against self-control and courts addiction. It is both motivated by greed and, paradoxically, is dangerously reckless with resources. It encourages attitudes and practices that are indifferent to the well being both of loved ones and of strangers. Finally, while it seems to offer freedom and an opportunity for authenticity, it actually enslaves by gravely damaging practical rationality and the basis of autonomy. While many regard it as at worst foolish or uncouth, on closer examination it is seen to be toxic to character.

NOTES

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READING QUESTIONS

1. What five aspects of an individual's character does Fletcher think are jeopardized by gambling?
2. What are the rewards of gambling according to its advocates?
3. How does Fletcher respond to what he calls the "Entertainment Argument" for gambling?
4. Explain the reasons Fletcher offers for why the practice of gambling contributes to and represents a failure of rationality. Provide concrete examples of gambling behavior that exhibits the irrationality he attempts to characterize.
5. What is Fletcher's argument for the claim that gambling promotes indifference toward others? What arguments does he consider in opposition to this view and what is his response?

DISCUSSION QUESTIONS

1. Does the practice of gambling jeopardize our character in the several ways Fletcher suggests? If so, is the detriment inflicted on a person's character by gambling a necessary result of the practice or is it somehow avoidable?
2. Suppose Fletcher is right to recognize the differences between forms of entertainment like gambling and going to a film or a play. The former represents a moral hazard while the latter is often morally neutral if not rewarding. Do we have any reasons to think that engaging in the latter sorts of activities is ever morally hazardous? What, if any, other forms of entertainment or activity can threaten our moral character in the ways Fletcher describes?

ADDITIONAL RESOURCES

Web Resources

- The U.S. Drug Enforcement Administration (DEA) <www.usdoj.gov/dea>, providing information on drugs, drug laws, and drug prevention.
- The National Institute on Drug Abuse (NIDA) <www.nida.gov>. NIDA's main objective is to bring to bear on drug abuse the results of scientific inquiry. It also provides detailed information about specific drugs and drug prevention.
- The National Organization for the Reform of Marijuana Laws (NORML) <www.norml.org>. A site with information about marijuana and dedicated to its legalization.

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- Newton, Lisa H., "Gambling: A Preliminary Inquiry," *Business Ethics Quarterly* 3 (1993): 405–18. Newton argues that the wrongness of gambling can be explained by appeal to the duty of stewardship—the duty to protect and take care of property. Her argument is discussed in both the Collins and the Fletcher articles included in this chapter.
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