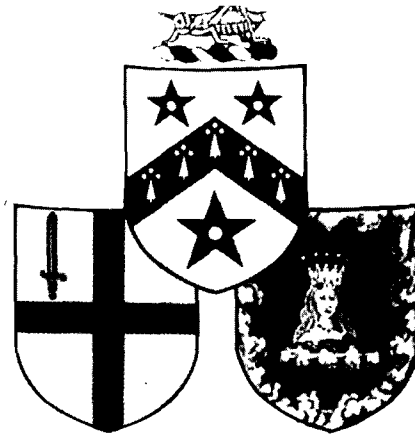


G R E S H A M
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NEGOTIATING THE ETHICAL MINEFIELD

Lecture 4

WHAT'S YOUR POISON?

by

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Negotiating The Ethical Minefield

IV

What is your Poison?

I want to begin by reflecting on the distinction between the concepts of sin and immorality, since there is an important difference between them. Sin is an essentially religious idea; an ancient definition describes it as disobedience of God. One way of thinking about this is to see it against the patriarchal background of Christianity, which thought of God as a father with a strict code for the upbringing of his children. In this particular father's house are many rules and regulations, many activities that are forbidden, many that are required. There may be an undisclosed rational ground for these prohibitions and imperatives, but the concept of sin essentially works on the basis of obedience rather than consent, blindly following what is commanded rather than co-operating with an end that is understood and voluntarily accepted. The great text on the subject is found in Genesis chapter 22, where Abraham's obedience is tested by God in a particularly cruel way: *God said, "Take your son, your one and only son Isaac, whom you love, and go to the land of Moriah. There you shall offer him as a sacrifice on one of the heights which I shall show you"*. Scholars have seen this powerful and mysterious narrative as a remnant from a time when human sacrifice was practised, but this kind of historical approach dilutes its religious value by trying to account for or explain the offence that is the very point of the story. The event celebrates the type of consciousness that wants to be commanded to perform extreme acts of obedience by an absolute authority whose attractiveness lies in its very refusal to explain itself. This is the heart of the concept of sin: sin is not only committing what is forbidden by God, but refusing to do what is commanded by God. The power of the concept lies in the unthinking nature of the obedience that is demanded.

The concept of sin is problematic in our post-modern moral confusion. It belongs to a particular type of religious consciousness, usually one that is based on a theory of creation, and the matter of which it is composed, as being in a fallen or unclean state. This idea of the impurity of matter, its suspect nature, will be particularly important when we come to think more closely about why some organic substances are held to be evil and dangerous in themselves, so that the moral focus is upon the material rather than upon the agent who uses it. The sin concept transfers itself easily to certain natural acts and substances that are held to be wrong in themselves, rather than being subject to abuse by sinful human beings. The difficulty comes when we try to offer moral justifications for what are actually religious prohibitions. I may abjure pork, because my religion holds it to be unclean, but I cannot justify that claim morally, except on grounds that have nothing to do with swine. We might argue that if I have committed myself to a religious system that requires me to promise not to eat pork and I do eat it, I have committed a wrong act; but the wrong lies in breaking the promise, because, while eating pork is demonstrably harmless, breaking promises is demonstrably harmful.

Before trying to express the distinction between sin and morality let me add a note about the attitude of Jesus to sin. Jesus used the vocabulary of sin, but he refused its identification with the breaking of external codes and rules, its materialisation. Sin came from the selfish heart, the inescapable human tendency to organise reality to suit ourselves even when it harms others. In fact, his attitude to sin was more congruent with contemporary understandings of

morality than religious systems based on external obedience. Morality tries to base itself on observed consequences, not on beliefs, superstitions or preferences. A wrong act is one that manifestly harms others or their interests or violates their rights or causes injustice. There are many distinctions to observe here, and many calculations or approximations to be judged, but the central stream of the concept of wronging or harming another is reasonably clear. For the idea of harm to work as a moral as opposed to a religious principle, we have to be able to give proof of the harm. Religious teachers might claim, for instance, that an act that had no harmful consequences discernible on earth was, nevertheless, forbidden by God and would be punished after death, so that the concept of harm was extended eschatologically and was therefore beyond human proving. Claims of this sort, while they may persuade religious people, do not sustain themselves by the kind of argument needed to justify human moral systems. Saying that an act is wrong because it is forbidden by God is not sufficient unless we can also justify it on moral grounds .

If we can use the idea of harm as our moral criterion, we will probably be drawn to admit that no act of consensual sex between responsible adults can be immoral simply because of the sex, though it may be on other grounds. The basis of the almost universal condemnation of adultery is the betrayal of trust and the violation of a promise freely given. Even here there can be exceptions that prove the rule, such as the case of the man who had been faithfully married to his wife for thirty years when she contracted Alzheimer's disease. He continues to nurse her faithfully, though she has long since gone into that far country that is the tragic fate of those who suffer from this disease. A few years ago he and a family friend, who assists him in the arduous care of his wife, became lovers. Together they strengthen one another in their care for the woman they are theoretically sinning against. Is any actual harm being committed here, except in the purely formal sense? This is an example of the way in which genuinely good things can be in conflict with one another, so that mature people try to learn to live with contradictions rather than insisting on neat resolutions.

Our search for basic moral principles , if we are wise, will always allow for situational variations of this sort. Morality is as much an art as a science and it calls for a certain versatility from us, that ability to improvise and respond to actual circumstances which I mentioned in my first lecture. A good example is provided by the current debate about the medical use of cannabis. Without, for the moment, taking sides on the question of decriminalising this substance, the dilemma that faces us in the current climate is fascinating. Here is a natural substance we have decided to ban as a recreational drug. We subsequently discover that, used in certain forms under medical supervision, it has beneficial effects on people suffering from a number of incurable and distressing diseases. Let us take Keith as an example. Keith was infected with HIV in 1983. By 1993 he had developed wasting-syndrome, a metabolic change that causes patients to lose rapidly not only fat, but muscle tissue. It is usually a death sentence. In a few months Keith lost forty five pounds, a quarter of his body weight. Like many people with AIDS, Keith takes ten to fifteen medications a day. Many of them cause debilitating nausea and destroy his appetite, yet many of these drugs have to be taken on a full stomach, and missing one dose can be disastrous. Keith was dying slowly of emaciation when he got into an experimental trial that was treating wasting syndrome with human growth hormone. For his new drug to work, however, it was essential to eat three meals a day, something he found impossible to do. His physician mentioned to him that many of her patients were inhaling marijuana to suppress nausea and increase their appetite. He began taking a puff or two before eating, enough to give him an appetite without

getting stoned. Fortunately, Keith lives in California where, in November 1996, voters overwhelmingly approved Proposition 215 to enable seriously ill people to obtain marijuana upon the recommendation of a physician. Keith regained the weight he had lost, is still eating three meals a day and is the picture of health.¹ It was the growth hormone that put on the weight, but without the marijuana to stimulate his appetite he would be dead today. Now, even if we support the ban on its use as a recreational drug, what is the moral argument against using cannabis to benefit the sick in this way? If we argue that the drug is banned because it harms people, how can we apply that as an argument against using the substance medically to benefit people? Scalpels in the hands of muggers harm people, so we must find ways of denying criminals their possession, but in the hands of surgeons they are instruments of healing. If we ban scalpels completely because they can injure people if used unlawfully, we harm those who would benefit from their lawful use. The same is obviously true of substances that can be put to different uses.

The difficulty here may lie in our passion for neatness or absolute systems. Experience teaches, however, that good things can be in contradiction and the wise approach may lie in living with the contradiction, the apparent inconsistency. It would be possible to argue, for instance, that cannabis ought to be banned as a recreational drug because it does harm. The harm would have to be demonstrated, of course, but let us assume for the purpose of this argument that it has been. We have done a good thing, therefore, in banning a substance that harms people when used recreationally. But we go on to discover that this same substance, which does harm when used recreationally, also does good, reduces harm, in certain circumstances when carefully prescribed. A mature moral system would learn to live with that apparent contradiction, by recognising that good policies can be in opposition. Indeed, the drama and tragedy of the moral life lies in the fact that most human disagreement is between opposing goods rather than between right and wrong. Indeed, the really excruciating element in the debate about drugs is precisely the conflict created by the good of maximising personal freedoms and the good of minimising the harms those freedoms may cause.

The real problem with the debate about drugs is that it takes place across a broad front that prevents us from looking at it in purely moral terms. There are more than echoes here of the ancient culture of sin and witchcraft that hold certain substances or natural activities to be wrong in themselves, inherently wicked. There is also, and this is probably the most powerful element in the current debate, the effect of political considerations on moral attitudes. We know that public opinion has a profound influence on politicians, who, apart from wanting to stay in power, have to practise the art of the possible and cannot be too far ahead of their constituents on controversial topics. And there is the reluctance we have just noticed to recognise the complexity or plural nature of morality, what Isaiah Berlin called the *incommensurability* of values. While we keep all that in our minds, let us try to think about drugs in moral, rather than political terms, and see what conclusions we come to.

Observation would suggest that human beings need food, shelter, sex and they like drugs. The word drug is loaded, of course, and it is almost impossible to purge it of its unattractive associations. A drug is a natural substance that has psycho-active properties, it works upon the way we feel. That is why we take it. It may act as an euphoric, putting us in a good, relaxed mood; it may put us up or put us down, energise or tranquillise us. Humans always seem to have used substances that help them take vacations from the necessary routines of

life, but most of us know the difference between a vacation and real life. We need a break from time to time, but we know it is a break, a necessary interruption of the routine, not a commitment to a way of life. We also know that our nature has a tendency to overdo things, to get things out of proportion, so, if we are wise, we learn temperance or moderation, we learn virtue. In the sense defined by Aristotle, a virtue is a mean between two extremes of a good thing. There can be no virtue of an activity that is clearly wrong in itself, such as murder. Virtue applies to things that are good in themselves or morally neutral, but which we can easily abuse, if we are not careful. Virtue lies in finding the mean, the balance, between the two. The virtuous person lives the balanced life. Courage is a good example. In many ways, courage is the foundation virtue. Without it, it is difficult to practise the others. Courage is the mean between cowardice and rashness, the balance between paralysing fear and imprudent recklessness in the face of danger. We can apply the calculus of virtue to our sexuality and other appetites, as well as to the use of those psychoactive substances we use for the pleasure they give us. They are not wrong in themselves, but they can be used wrongly. And this is where the trouble lies.

The drugs that are now illegal substances in Britain and the USA were gradually outlawed for reasons that have as much to do with politics, class and race as with the problematic qualities of the drugs themselves. If the moral calculus were based simply on the potential danger of any particular drug, then we would have outlawed the two most dangerous drugs on the market long ago, alcohol and tobacco. In Britain, alcohol is involved in 65% of murders, 75% of stabbings, 40% of acts of domestic violence, 30% of child abuse, not to mention the 600 killed and thousands injured in drink-drive accidents. There are 1800 illegal substance deaths a year, compared to 33,000 that are related to the use of alcohol. In Scotland the figures for drug, alcohol and tobacco related deaths in 1994, a typical year, were, respectively, 247, 720 and 10,420. Against the background of that level of cumulative tragedy, it is not surprising that societies have experimented with banning substances that can wreak such havoc in the human community. The temperate reasonableness of Aristotle's picture of the educated man "brought up with good habits" is a far cry from kids crazed by crack in inner city ghettos.

But what happens when something that people want is made illegal? A good example is provided by the great American experiment in prohibition. When something is outlawed that many or most people want a whole sequence of consequences ensues. First of all, supply drops more than demand, so the price of the substance goes up. Because it has been forced underground, the flow of information necessary to an efficient market is disrupted, so there is less price competition for the drug in demand. The lack of competition enables dealers to charge monopoly prices, so profit margins widen. The big profits attract people who would not otherwise get involved, spreading corruption and contempt for law, and creating opportunities for people who are professionally expert at breaking the law, either criminals or agents of the criminal justice system. The fifth link in the chain is that supply once more becomes conspicuous, marketing the drug becomes more aggressive, the price falls, demand rises, drawing the attention of the forces that got the substance outlawed in the first place. The law cracks down on supply, driving the amateurs out of business and leaving organised crime in control, now with even higher profits and with connections to corrupt members of the law enforcement agencies. At this point the rewards of the illegal traffic attract people capable of marketing it as an institution, and it becomes impossible to eliminate the suppliers. The traffic becomes internationally institutionalised and terrifying in its effects.

There seems to be an iron law that the more intense the law enforcement, the more potent the drug becomes. The American experiment with prohibition is the classic case study. It entrenched and institutionalised crime in the USA on a scale that could not previously have been imagined. By the time the Volstead Act was repealed in 1933 the damage was done. That is why the current American war on drugs, with its annual budget of \$16 billion dollars, is so familiar to those of us who were brought up on Hollywood movies about Prohibition. We saw the Federal Government lose the war against Al Capone and the syndicates that supplied alcohol to the millions that wanted it, in spite of the iron rectitude of Elliott Ness and the Untouchables. We are seeing it all again, this time through the lens of movies made about the US Drug Enforcement Agency. We know that those who do not learn from history are destined to go on repeating it, so what lessons can we learn from that great, failed experiment?

The chronology seems fairly clear, even if nothing else is. Until 1916 cocaine and morphine could be bought over the counter at Harrods. As we have seen, the US led the way in trying to prohibit the use of drugs and alcohol by an amendment to the Constitution in 1919. Tobacco, however, remained untouchable. It was the American drug, after all, and it was so domesticated and universal that it was impossible to think of it as a drug. Everyone smoked and no one complained. Those old enough to remember will have sat in cinemas for hours pickled in the smoke from hundreds of cigarettes, watching the light from the projection booth cutting its way through a fog that only seemed to add to the romance of the movies. The long reign of King Nicotine illustrates the ancient human failure to connect our own pleasures to those of others. We assume that our pleasures, because they are ours, are more benign and less problematic than the pleasures of strangers. Half the world, for instance, has been consuming hash for centuries, including highly disciplined Islamic countries, which outlaw alcohol, the other domesticated Western drug. It was the very foreignness of hash, though it is arguably less dangerous in its effects than alcohol or tobacco, that made us suspicious of it. The motive behind American Prohibition seems to have been a potent combination of Puritanism and Racism. Opium was associated with Chinese immigrants, cocaine with southern, black labourers, and alcohol with the Catholic cultures of Europe. The great American war against drugs started in 1919 on a wave of xenophobia.

Britain, to begin with, was more cautious. Since it is not the substances themselves but their abuse that is the problem, an approach to drug abuse was evolved, called the British System. In 1926 the Rolleston Committee report recommended that doctors be permitted to prescribe heroin and cocaine to addicts and cannabis linctus to patients. The system worked well, though most people were probably unaware that it existed, probably because there were few requests and few addicts, most of whom, anyway, were middle-class or belonged to artistic minorities whose eccentricities were usually tolerated. Anxiety increased in the Sixties when the pattern of drug use changed and became more general. In the USA the association of drugs with the anti-Vietnam War movement probably helped to crystallise in the mind of President Nixon the un-American nature of many of the substances in question. In 1962 the Brain Committee recommended no change in the existing practice of allowing doctors to prescribe as they saw fit. However, by 1964 the situation had so deteriorated that the Committee was reconvened to reconsider its decision. It recommended in 1965 that restrictions should be placed on a doctor's right to prescribe heroin and cocaine. This was given the power of law in 1967, along with a requirement for a special Home Office licence to prescribe heroin and cocaine for addiction. Barbiturates and benzodiasapines were added

to the list of controlled drugs in 1984 and 1986. The controversial maintenance prescription of substitute drugs such as methadone was introduced in the late 1980s in response to the HIV epidemic and was seen as a public health measure. Nowadays heroin addicts, unless they are in the methadone maintenance programme, are dependent on the black market. They turn to theft to buy drugs, and it is the alarming increase of drug related crime that has brought the subject before the general public. A related fact is the link between drug consumption and social deprivation and the devastating way each reinforces the other. According to one anti-prohibitionist campaigner, "*Whether it is tobacco, alcohol or crack, the link between social deprivation and problematic drug use is very clear. Poor people with little job training, hopes of employment or educational opportunities are living in a state of despair - and heroin is one hell of a drug for dealing with that*".² Interestingly, it is a combination of the front line workers in the field, doctors, social workers and the more thoughtful law enforcement officers who are helping us to rethink our attitude. Though they are relatively few in number, heroin addicts are uniquely unsympathetic characters who create a disproportionate amount of chaos around them. The tragic heart of the debate is over what to do with them. The only models on offer for dealing with this human tragedy are prohibition, with the consequences we have already noted, or a maintenance programme for addicts that used to be called the British system which is being increasingly followed in other countries, such as Switzerland. During an experimental three year period there when heroin was prescribed for addicts, crime was reduced by 60%, the general and nutritional health of the addicts improved, as did their living conditions, their illicit cocaine and heroin use was dramatically reduced and it doubled the number of participants who were employed.³ The chances are good that we will adopt an increasingly experimental approach to what seems to be an intractable problem. The purely prohibitionist approach does not seem to work, though the motivation behind it is understandable and it has enormous symbolic importance for many people. On the other hand, an entirely libertarian approach, which may be philosophically attractive to a certain kind of mind, may trap us in the law of unintended consequences, by exposing weaker members of our society to dangers through which the more balanced among us would find it possible to navigate.

Let me offer some kind of summary not so much of the argument as of the situation that provokes the argument. Whether we approve or not, it seems to be the case that most people like to use drugs, euphoric or mind-altering substances, because of the pleasure they derive from doing so. However, some people all of the time and many people some of the time misuse these substances to a greater or lesser extent. There are people, for example, who become addicted to a particular substance or a cocktail of substances. Experts make a distinction between the physically and psychologically addictive properties of a substance. I suspect that this can never be an absolute distinction, but we are told, for instance, that alcohol is physically addictive; heroin, methadone and nicotine are both physically and psychologically addictive; while cannabis may be psychologically addictive if used heavily. There are mysteries here. Regular use of nicotine seems to produce physical dependence in most users, which is why it is so difficult to give up, while regular use of alcohol clearly addicts some but not most users. However we account for it, there seems to be a significant minority of the population who are unable to use these substances virtuously, that is, moderately. For them the only safe route is total abstinence, though moving from addiction to freedom can be crucifyingly difficult and calls for enormous courage and an enduring discipline. The plight of the addict is enormously resonant in our society and associates many of these substances with images of tragedy and terror that colour our attitude to the best

way to order their use. We also know that while addiction is no respecter of social class, substance abuse amplifies already existing social deprivations and tightens the trap in which the excluded find themselves. And lurking in the deep background is a sort of metaphysical hangover of assumptions about the fallen status of certain pleasure-yielding substances that makes it difficult for us to view them neutrally and plan their use dispassionately.

It is not surprising, therefore, that the prohibitionist approach has been so potent in our history. For some people personal prohibition is the only policy that will save their lives, so it is easy to see how a society as a whole could extrapolate this approach as the only way to deal with the threat drug abuse poses for the civil order. The flaw in the prohibitionist approach, however, is that it seems to be inconsistent with some of the other values we prize in an open society. This is an example of the way good values frequently conflict in a democratic polity. It is clearly a good thing to want to protect vulnerable people from the consequences of certain behaviours, but it is also a good thing to allow responsible people maximum freedom, within acceptable limits, to manage their lives according to their own desires. The difficulty with the prohibitionist approach is that it places these two values in irresolvable conflict with each other. It is also arguable that laws that prohibit activities and substances that most people want access to, at least some of the time, can only be applied successfully in totalitarian systems where those in power have no respect for individual freedoms. In open societies prohibitions that do not have the overwhelming consent of the people are almost impossible to police and can end up corrupting the very system that is there to enforce them. The main value of prohibitionist laws lies in the symbolic disapproval they express of certain behaviours. In open societies they seem to be incapable of extirpating them.

Fortunately, the prohibitionist approach is not the only model we have available to us. There is a middle way between absolute prohibition and absolute license and we are already following it in our management of legal drugs. The history of tobacco use is a good example of this process. In the early part of this century tobacco use was widespread and socially acceptable. There was always a struggle to keep children from smoking, but as soon as they were old enough most people went on to cigarettes, or pipe tobacco in the case of some men. Even monasteries gave their members a tobacco ration, as I can remember from my own experience. Once the link between tobacco and various diseases was established, however, a strategy started to evolve that was designed to educate people about the dangers of smoking. We went from health warnings on packets of cigarettes to the banning of advertising and the prohibition of smoking in public places, which is why cigarette smokers can now be seen standing uncomfortably in doorways having a quick puff before ascending to their smoke free offices. And, of course, we tax tobacco punitively, thereby illustrating one of the hypocrisies of government: actively discouraging smoking, while raising vast tax revenues from the very people of whom it affects to disapprove. In all these areas, adults will calculate the risks and benefits of smoking differently, and there are striking differences between different cultures. The United States, which still carries many vestiges of its puritan past, has made smoking tobacco almost impossible except behind closed doors in private, while in parts of Europe most of the population go on smoking, balancing, presumably, the pleasure it gives them against its cumulative effect on their health.

An obverse development can be traced in the history of alcohol consumption in our society. Certainly, in the Scotland of my boyhood there existed a strange combination of legal access

to alcohol alongside a semi-prohibitionist culture that limited its availability in arbitrary ways. For example, it was impossible to get a drink in a pub on a Sunday, because they were not allowed to open, while a bona fide traveller could buy a drink in a hotel. In my community in the West of Scotland this led to the phenomenon of the Sunday bus run to country hotels for the simple purpose of consuming alcohol. A bus would be hired to take the customers to a series of hotels in the district, and these bona fide travellers would return to their families at the end of the day much more heavily intoxicated than might have been the case if they'd been able to go down to their local for a pint or two after lunch. Opening hours during the week were also severely limited. The average Scottish pub was an austere, male dominated establishment, designed for heavy drinking under the tyrannous eye of the clock. Recent changes in the culture of drinking in Scotland have increasingly civilised the consumption of alcohol. Alcohol abuse is still a major problem among us, but it is not the ugly and brutal thing it was in the Scotland of my boyhood. Of course, social development creates new problems from old habits, and the lethal combination of drinking and driving is one we are now tackling. In time it will probably be made illegal to drive with any level of alcohol in the bloodstream, a form of prohibition that society will probably tolerate.

This swift survey illustrates the dynamic nature of societies as they struggle with the impact of human appetites upon the common good. The process never stops, though certain elements seem to endure. Human nature has a tendency to hedonistic inflation, to turn good things into bad by using them excessively. This tendency to overdo things is greatly amplified in some people and it is strongly influenced by psycho-social factors it is difficult to control. In making the ethical calculus, therefore, there emerges a tension between the educated freedom of the virtuous person who is taught the wisdom of moderation, and the need to protect the weak, especially the young, from the perils of this same freedom. The balance is never perfectly achieved anywhere, it is always something that is in process, but there do come moments when a particular combination of circumstances calls for a new level of intentionality in our address upon the subject, a deeper investigation of all the factors involved. We seem to have reached one of those moments in our own time. We are experiencing an uncomfortable confusion in an area that connects personal morality and private freedom with the public good. History teaches that the best way to handle this kind of conjunction of circumstances is by the mounting of a major investigation that will look dispassionately at all the factors and make recommendations for achievable acceptable change. The time is ripe for just such an approach.

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¹ New York Times. July 20 1997

² Danny Kushlick in The Guardian, November 1 1997

³ The Guardian, November 1 1997