Application 2.10

The Ethics of Addiction
ANALYZING COMPLEX ARGUMENTS BY ANALOGY

To defend his claim that drugs should be legalized in America, the noted political philosopher Thomas Szasz makes intensive use of a variety of arguments by analogy.9

The Ethics of Addiction

... In my view, regardless of their danger, all drugs should be “legalized.” ... I favor free trade in drugs for the same reason the Founding Fathers favored free trade in ideas. In an open society, it is none of the government’s business what ideas a man puts into his mind; likewise it should be none of the government’s business what drug he puts in his body....

To be sure, some drugs are more dangerous than others. It is easier to kill oneself with heroin than with aspirin. But [this difference in itself does not justify prohibiting the use of dangerous drugs]. It is also easier to kill oneself by jumping off a high building than a low one. In the case of drugs, we regard their potentiality for self-injury as justification for their prohibition; in the case of buildings, we do not....

The fear that free trade in narcotics would result in vast masses of our population spending their days and nights smoking opium or mainlining heroin, rather than working and taking care of their responsibilities, is a bugaboo that does not deserve to be taken seriously. Habits of work and idleness are deep-seated cultural patterns. Free trade in abortions has not made an industrious people like the Japanese give up work for fornication. Nor would free trade in drugs convert such a people from hustlers to hippies....

The salaries of the medical bureaucrats in charge of [drug rehabilitation] programs are ... attractive. In short, the detection and rehabilitation of addicts is good business. We now know that the spread of witchcraft in the late Middle Ages was due more to the work of wicchmongers than to the lure of witchcraft. Is it not possible that the spread of addiction in our day is due more to the work of addictmongers than to the lure of narcotics?....

Clearly, the argument that marijuana—or heroin, methadone, or morphine—is prohibited because it is ... dangerous cannot be supported by facts.... [T]here are many things, from dynamite to guns, that are much more dangerous than narcotics (especially to others) but are not prohibited. As everyone knows, it is still possible in the United States to walk into a store and walk out with a shotgun. We enjoy this right not because we believe that guns are safe but because we believe even more strongly that civil liberties are precious. At

the same time, it is not possible in the United States to walk into a store and walk out with a bottle of barbiturates, codeine, or other drugs.

I believe that just as we regard freedom of speech and religion as fundamental rights, so we should also regard freedom of self-medication as a fundamental right. Like most rights, the right of self-medication should apply only to adults; and it should not be an unqualified right.

John Stuart Mill said (approximately) that a person’s right to swing his arm ends where his neighbor’s nose begins. And Oliver Wendell Holmes said that no one has a right to shout “Fire!” in a crowded theater. Similarly, the limiting condition with respect to self-medication should be the inflicting of actual (as against symbolic) harm on others.

The Constitution and the Bill of Rights are silent on the subject of drugs. This would seem to imply that the adult citizen has, or ought to have, the right to medicate his own body as he sees fit. Were this not the case, why should there have been a need for a Constitutional Amendment to outlaw drinking? But if ingesting alcohol was, and is now again, a Constitutional right, is ingesting opium, or heroin, or barbiturates, or anything else, not also such a right? If it is, then the Narcotics Act is not only a bad law but is unconstitutional as well, because it proscribes in a legislative act what ought to be promulgated in a Constitutional Amendment.