Research paper

Virtue ethics as an alternative to deontological and consequential reasoning in the harm reduction debate

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Abstract

Background: There is strong evidence that harm reduction interventions such as Supervised Injection Sites and Needle Exchange Programs prevent many of the negative consequences of problematic substance use. Yet many governments, including the United States and Canada, still do not endorse these interventions, claiming that they do not get people off of drugs and send a mixed message.
Methods: This paper will analyze objections to harm reduction in light of the ethical theories of John Stuart Mill, Immanuel Kant and Aristotle.
Results: The most important ethical issue in the abstinence vs. harm reduction debate is whether harm reduction – because it does not require individuals to either reduce their consumption of illicit substances or to abstain from illicit substance use – can be ethically justified.
Conclusion: Harm reduction interventions are clearly justified on Utilitarian grounds because, based on the evidence, such policies would produce the greatest good for the greatest number. However, Kant would not think that the values guiding harm reduction are ethical because the justification of harm reduction interventions focuses exclusively on examining consequences. Virtue Ethics seeks to find the proper balance between harm reduction and abstinence. We claim that the virtue of compassion would provide a defense of harm reduction.
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Introduction

The purpose of this paper is to extract and analyze ethical theories that bear on two approaches to dealing with problematic substance use, i.e., abstinence-based approaches and harm reduction approaches. The primary issue to be investigated is how harm reduction – because it does not require individuals to either reduce their consumption of illicit substances or to abstain from illicit substance use – can be ethically justified. The harm reduction approach claims that many of the negative consequences associated with problematic substance use are avoidable through specific interventions, and these interventions can be effective regardless of whether substance use persists. The abstinence-based approach, however, claims that it is important to get individuals off drugs or at least to decrease consumption. This latter approach generally maintains that, since harm reduction interventions tolerate continued substance use, they send the wrong message.

We employ three different ethical models to analyze the values conflict between the harm reduction and the abstinence-based approaches. Our methodology in this paper is different than that usually employed in addressing ethical issues in the applied ethics field (Beauchamp & Childress, 2001). Typically in applied ethics, the principles of autonomy, beneficence, nonmaleficence, and justice are first applied to specific situations. Then the analyst will use his or her moral intuitions to determine which principle or principles are most important given the particular facts of the situation. We approach the debate in a different way because depending on moral intuitions is highly problematic. Specifically, we will focus on the philosophical theories from which the above-mentioned principles have been abstracted.

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For example, the principle of autonomy is abstracted from Deontological ethics, beneficence and nonmaleficence from Utilitarianism, and the principle of justice was originally articulated by Aristotle who is a key source of contemporary Virtue Ethics. The advantages of our approach are, first, it directly addresses what are clearly the three most influential models in contemporary ethical thought and, second, it is more robust than simply referring to abstract principles and then using intuitions to determine which principle is most important.

Harm reduction

To discuss harm reduction it is necessary to identify (1) its fundamental assumptions and definition, (2) specific kinds of harm reduction interventions and (3) the implications of the political advocacy of many harm reduction proponents.

The fundamental assumption of harm reduction, which is the primary focus of this paper, is that it is important to try to reduce drug-related harm (Erickson, Butters, & Walko, 2007). The harm reduction approach does not require individuals to reduce or abstain from drug use; rather it attempts to mitigate the negative consequences of drug use. Abstinence could be an eventual outcome and is consistent with harm reduction; however, abstinence is not a condition of the harm reduction approach.

There are numerous kinds of harm reduction interventions, and they apply in different ways depending on the particular substances and activities involved: illicit opiates, cocaine, ecstasy, alcohol, tobacco, etc. The specific interventions discussed in this paper are needle exchange programs and supervised injection sites. Not all harm reduction interventions have the same ethical justification. For example, needle exchange programs and supervised injection sites assist individuals who are already engaged in an activity. If an individual is going to inject drugs regardless of the harms involved, needle exchange gives that person clean needles and a supervised injection site provides a medical setting in which the person can inject the drugs, but in neither case does the intervention involve supplying the substance. The ethical justification for other harm reduction interventions would be different. For instance, heroin prescription programs actually provide the substance to individuals, which is different than simply providing sterile equipment or supervising injections. Noting this difference is not to make the judgment that there may be something ethically problematic with heroin prescription; it simply recognizes that the situation is different and, therefore, the ethical justification may be different. For the sake of simplicity, we have chosen to focus on the generic philosophical aspects of harm reduction, with specific references to needle exchange programs and supervised injection sites, when necessary.

Finally, as with any important development in public policy, there are elements of political advocacy within the harm reduction movement. Some advocates argue for complete legalization of illicit drugs and radical drug law reform (Hankins, 2000), while others argue for a medical model that is more cautious (Anderson, 2000). We address the advocacy issue peripherally in the sense that we think harm reduction makes ethical sense, is superior to alternative policy approaches to problematic substance use, and can surmount the standard ethical objections to it.

Criticisms of harm reduction

The most important ethical concern with harm reduction is related to the "value-judgment" that it is more important to reduce the harms associated with drug use than it is to reduce or prohibit drug use. The controversial character of this value judgment is amplified because the relevant drugs are illegal. Critics of harm reduction have argued that (1) it encourages drug use, (2) it sends a mixed message, and (3) it fails to get people off of drugs.

There is a significant amount of the literature, however, supporting the claim that harm reduction interventions do not increase or encourage drug use. In fact, the evidence demonstrates the opposite. The experience of the Canadian supervised injection site shows that some patients, who would not have otherwise sought treatment, eventually seek treatment, including abstinence-based programs, as a result of using the site (Tyndall et al., 2005). This is consistent with what has been observed in needle exchange programs as well; participants frequently seek referrals for treatment (Strathdee, Celentano, & Shah, 1999; Hagan, McGough, & Thiede, 2000). Based on what is currently known, the claim that harm reduction programs encourage drug use is unsubstantiated.

The second criticism of harm reduction is that it "sends a mixed signal." This objection was made in a 1996 letter to the Governor's Advisory Council on AIDS (Whitman, 1996). In this letter, Christine Whitman, the former Governor of New Jersey, acknowledges that the National Academy of Science and the Centers for Disease Control and Prevention endorse needle exchange programs as effective interventions for interrupting the spread of HIV. She argues, however, that needle exchange programs "send a mixed signal" and that Governments should not "be in the business of facilitating illegal activity." These sentiments are echoed in the United States' National Drug Control Strategy, which states that (1) there should be no tolerance for substance use whatsoever (ONDP, 2007a), (2) it is essential to deter substance use (ONDP, 2007b) and (3) it is imperative to disrupt illegal drug markets (ONDP, 2007c). The impetus for these objections is the belief that any policy that tolerates drug use sends a "mixed signal" and frustrates primary prevention efforts.

It seems, however, that these arguments are simply a restatement of the first objection, namely that harm reduction will encourage illegal drug use. For example, if the outcome

of encouraging illegal drug use was not relevant to this argument, it is difficult to understanding what "sending a mixed signal" would mean or why it would even be a relevant consideration. The significance of this objection is mitigated by the same evidence that invalidates the first objection.

A third criticism of harm reduction is found in the following quotation from the (current) Canadian Federal Minister of Health, Tony Clement:

> Do safe injection sites contribute to lowering drug use and fighting addiction? Right now the only thing the research to date has proven conclusively is [that] drug addicts need more help to get off drugs. Given the need for more facts, I am unable to approve the current request to extend the Vancouver site for another three and a half years (Health Canada, 2006).

Scientific evaluation of the Canadian supervised injection site revealed that the facility attracted drug users who were formerly most likely to inject in public and be at highest risk of HIV infection and death due to overdose (Wood, Kerr, & Montaner, 2004a; Wood, Kerr, & Small, 2005a; Wood, Tyndall, & Li, 2005b). The opening of the supervised injection site was followed by statistically significant reductions in public drug use and publicly discarded syringes (Wood et al., 2004b); was associated with reduced syringe sharing and other forms of HIV risk behaviour (Kerr, Tyndall, Li, Montaner, & Wood, 2005); and was a key referral mechanism to addiction treatment and other community resources including abstinence-based programs (Tyndall et al., 2005). It was not associated with increased drug use or other drug-related problems (Kerr et al., 2006).

The Minister's reasoning, however, suggests that it is more important to "contribute to lowering drug use [,] fighting addiction" and getting people "off drugs" than it is to achieve these outcomes. This belief is so strongly held that the Minister refused to renew the Section 56 exemption to the *Controlled Drugs and Substances Act* given to the supervised injection site, which will make it illegal for the site to operate after this exemption expires in June 2008.

This is a substantive objection to the theoretical underpinnings of harm reduction and requires a careful ethical analysis. If a program will get people off of drugs, then the Minister would seem to approve of it; if it does not get people off of drugs, the Minister is definitely against it, even if the program otherwise avoids many of the negative consequences of illicit drug use. Embedded in this objection is the values-based preference for an abstinence-based approach to drug policy. The abstinence-based approach differs from harm reduction in a very important respect; it requires the individual either to abstain from drugs or attempt to abstain from drugs (Christie & Anderson, 2003; Tammi & Hurme, 2007). The harm reduction approach, however, does not require the individual to either abstain from or reduce consumption of illicit drugs. It simply seeks to prevent the negative consequences of illicit substance use.

Ethical analysis

In his recent article entitled "Ethics and drug policy," Alex Wodak argues that the scientific debate about harm reduction is over (Wodak, 2007a). Harm reduction works. The real conflict, which has largely been overlooked, is about ethics. More specifically, it is a revival of the debate between Utilitarian and Deontological approaches to ethics. Wodak claims that, implicit in the reasoning of harm reduction advocates, is a Utilitarian argument, which holds that the key guideline in ethics is that if negative consequences can be avoided they should be avoided. Abstinence advocates, however, generally seem to employ a Deontological ethic, which maintains that the moral worth of one's actions has nothing to do with the consequences of those actions but, rather, is determined by the intention of the actors. Our analysis will examine this debate in more depth. We will present and interpret the ethical theories of the Consequentialist Utilitarian, John Stuart Mill, of the founder of Deontological ethics, Immanuel Kant, and Aristotle's Virtue Ethics, which many see as a remedy to the Consequentialist–Deontological dilemma.

Utilitarianism (John Stuart Mill)

John Stuart Mill was a 19th century British philosopher who was seminal in the development of liberalism (Arnold, 2006) and is still recognized as one of the key proponents of Utilitarianism (Mill, 1863). His theory of liberty holds that individuals in society should have broad ranging freedoms, such as liberty of thought, discussion, association, and the right to pursue their own life goals as they see fit. The only justifiable limit to an individual's liberty occurs when that person's actions will harm others. This is called the 'harm principle.' (Mill did not consider merely giving offence or causing inconvenience as harm. He thought if harm were defined to include these ways, individuals could be prevented from criticizing social conventions.) His contention was that by restraining the state's ability to interfere with the liberty rights of individuals, the long-term consequences for society will be positive.

Many liberal theorists root their theories in some conception of 'natural' or 'human rights.' They maintain that rights, such as the rights to life, liberty and property, are natural, inalienable, and intrinsically valuable. However, Mill thinks that individual liberty rights are instrumental, i.e., good for the sake of achieving something else. This idea is rooted in his commitment to Utilitarianism. Utilitarianism is the theory which contends that the foundation of morality is the greatest happiness principle, and holds that an action is right if it tends to promote the greatest happiness for the greatest number and wrong if it tends to produce the opposite of happiness. Happiness is defined as pleasure and the absence of pain and unhappiness is defined as pain and the privation of pleasure. Mill contends that pleasure and freedom from pain are the

only things that are intrinsically valuable and that everything else is instrumental to them.

When determining what will produce happiness, Mill is not focusing just on the agent's own happiness, but on that of the entire community. In determining this, each agent has one 'vote.' For the Utilitarian, the consequences for the community are of fundamental importance, and when calculating the consequences we must consider all relevant variables, including the difference between short-term and long-term consequences. For example, an action might produce much happiness in the short-term but, in the long-term, result in more harm than good; or the opposite might be true.

With regard to harm, Mill's 'liberal' view clearly makes allowances for individuals to harm themselves (e.g., to consume alcohol to excess). But if drunkenness leads an individual to neglect his or her responsibilities or to interfere with others, Mill would allow the state to intervene. The ethical issue is not the drinking or the harm to oneself, but the individual fulfilling his or her responsibilities—although drinking is the cause of the failure to carry out one's responsibilities. If a person could drink and not harm society, Mill would certainly not allow the state to interfere with that person's liberty.

This bears on the current discussion about drug use. Consider, for example, the harms of injection-related infections, overdoses, blood borne disease, violence, property crime, involvement in the sex trade, and incarceration (Kerr & Palepu, 2001; Hunt, 2005) The cost for every untreated opiate user is estimated to be over $45,000 (Cdn) per year (Wall, Rehm, & Fischer, 2000), the lifetime cost of treating a person with HIV exceeds $250,000 (Cdn) (Kuyper, Hogg, Montnaer, Schecter, & Wood, 2004), a course of Hepatitis-C treatment can range from $10,000 to $30,000 (Cdn) per patient (Public Health Agency of Canada, 2003), and Emergency Department utilization is significantly higher among those with problematic substance use than those without (Palepu, Tyndall, & Leon, 2001; McGeary & French, 2000).

Mill's liberal view, then, would allow the state to interfere with a person's liberty to use such substances when that use leads to harmful consequences for society. However, his liberalism does not answer the question of what is the most appropriate state response: abstinence-based policies or harm reduction policies? The answer to this question requires a Utilitarian analysis. Utilitarianism requires us to consider the current policy environment, the scientific evidence for each approach, and whether it is effective or not. This will give us guidance as to which approach best promotes the general happiness.

As discussed above, the policy environment – at least in the United States and Canada – is predominately abstinence-based; it is also influenced by the criminal justice system in which prohibition is dominant. For example, in Canada, 73% of federal spending in the National Drug Strategy is spent on enforcement measures such as border control, police investigations and federal prosecution expenses; whereas less than 3% is spent on harm reduction (deBeck, Wood, Montaner, & Kerr, 2006). This imbalance occurs despite the fact that

there is significant evidence indicating that abstinence-based policies have had many (albethey unintended) negative consequences (Hankins, 2000; Oscapella, 1996). Moreover, these negative outcomes are largely preventable through harm reduction interventions, such as needle exchange programs and supervised injection sites (Wodak, 2007b; Stoltz, Wood, & Small, 2007).

Since abstinence-based policies have many unintended negative consequences, Mill would conclude that they would likely not promote the greatest happiness for the greatest number. Moreover, he would note that the harm reduction approach will avoid many negative consequences. Thus, a Utilitarian would likely arrive at the conclusion that ethics demands a policy of harm reduction, and not simply abstinence.

Deontological ethics (Kant, 1785)

Immanuel Kant was an 18th century German philosopher who considered ethics an essential component of human life. He contrasted ethics with physics, explaining that physics describes the laws of nature according to which every material thing "acts," and ethics describes the laws of morality according to which every person "ought to act". He lamented the fact that frequently what "ought to happen" does not happen because, unlike purely material objects, human agents are free to choose how to act—i.e., whether to follow the ethical law. Since human beings are rational creatures, Kant thought the laws of ethics could be derived from 'reason' alone without having to appeal to specific circumstances or experience. On this theory, whether an action is right or wrong depends on the intrinsic nature of the action rather than on the situation or specific circumstances in which one finds him or herself. In other words, for Kant, ethics is primarily concerned with doing the right thing because it is the right thing to do, not because it is in the agent's self-interest, or because it will produce good consequences, or for any other 'instrumental' reason.

According to Kant, only actions motivated by a sense of duty have moral worth, and duty consists of acting out of respect for the moral law (or, as Kant calls it, the Categorical Imperative). The Categorical Imperative can be stated as follows: first, "act only on that maxim whereby thou canst at the same time will that it should become a universal law.", or secondly, "so act as to treat humanity, whether in thine own person or in that of any other, in every case as an end withal, never as a means only."

For Kant, the Categorical Imperative is a test useful for determining duty. He formulated it in different ways but thought that each formulation stated essentially the same insight and thus would always lead to the same conclusion. The first test is whether the maxim – the principle of action – could be universalized without contradiction. Kant gives the example of lying. If an individual needs to borrow money to get out of a difficult situation, and is aware that he or she will

not be able to repay the money but is also aware that no one will lend him or her money unless a promise of repayment is made, should that individual lie? Suppose that individual were to say 'yes.' Kant would say that the universalized form of the principle of this action – i.e., "Making a false promise (i.e., lying) is a universal law" – would make the concept of a promise incoherent; there would be no sense in promising. Others could never know what a speaker was saying or committing him or herself to when he or she uttered the words, "I promise . . ." Likewise, on the second formulation, lying would be using another person as a means to achieve one's own ends and thus not respecting that person as an end in him or herself.

According to Kant's deontology, consequences are irrelevant when considering the moral quality of an action. But the entire debate between harm reduction and abstinence is one that focuses on consequences. The major criticism of the abstinence-based approach is that it has greater negative consequences than does the harm reduction approach. Similarly, the major justification for harm reduction is that it works (i.e., has fewer negative consequences). However, on a Kantian model, an appeal to consequences is irrelevant when promoting or criticizing an approach; rather one is restricted to focusing on the intention of the agent.

An abstinence-based approach would almost certainly 'pass' the Kantian test. An application of Kant's Categorical Imperative would be: can we universalize the maxim that everyone everywhere should refrain from engaging in illicit injection drug use? Clearly, we could. A harm reduction approach, however, could not be justified on a Kantian model because its "raison d'être" is ultimately to avoid negative consequences. For example, needle exchange programs and supervised injection sites have value, not because illicit injection drug use is good, but rather to avoid more serious negative consequences. Kant would argue that this type of instrumental reasoning does not meet the relevant ethical standard. For an action to pass the test of the Categorical Imperative it must be able to be rationally willed by everyone and be able to be acted upon by everyone, that is, it would have to be seen to be good in itself without appealing to consequences. The essence of harm reduction is to appeal to good consequences as a justification for specific actions, e.g., needle exchange and supervising injections. It is important to note, however, that this does not mean that Kant would find harm reduction immoral, but only that it is not moral. On Kant's view consequences are irrelevant to the morality of actions and so reflect neither virtues nor vices.

Virtue Ethics

Virtue Ethics is most famously associated with Aristotle. It has enjoyed resurgence in contemporary moral philosophy as an alternative to the narrowness of the Deontological–Consequentialist dichotomy. Virtue Ethics does not focus on isolated acts but on the character of the agent—e.g., honesty, loyalty, courage, compassion, kindness, fairness, etc. Aristotle does not separate morality from politics. The point of politics is to have a good society populated with citizens of good moral character.

In the *Nicomachean Ethics*, Aristotle famously offers the mean as a heuristic device to determine whether a specific character trait is a virtue (Aristotle, 350 B.C.). Simply put, we can have too much or too little of a character trait understood as a mid-point between two opposites. Consider, for example, the virtue of courage understood as the correct balance of fear to fearlessness. People who suffer from cowardice have too much fear and not enough fearlessness; those who suffer from rashness have too much fearlessness and not enough fear. Or consider the virtue of honesty understood as the correct balance between hiding and revealing the truth. The liar, the person who is dishonest, hides the truth too much; the blabbermouth, the person who lacks propriety, reveals the truth too much. Moreover, Aristotle insists that morality depends upon a number of contextual factors. We need to do the right thing, to the right people, at the right time, in the right way, for the right reasons. Thus, a Virtue Ethics model takes account of context and consequences, without reducing ethics to simple matters of promoting pleasure, avoiding pain, or doing one's duty.

In the context of the present discussion on harm reduction and problematic substance use, we need to ask what virtue would require of a policy maker (and by implication, of a society): implementing harm reduction policies or implementing abstinence-based policies. The positive character trait driving those involved in harm reduction programs might be called "compassion." Compassion, defined in terms of the correct ratio between removing and not removing suffering or pain or misery from others, is clearly a virtue. When, however, it comes to helping those engaged in illegal or unhealthy and destructive behaviour, the issue becomes more complicated. What does it mean to be too compassionate or not to be compassionate enough? In finding the mean, we can better gauge, from the perspective of Virtue Ethics, the morality of harm reduction and abstinence-based programs.

So how compassionate should a society be? Define the virtue of compassion as having the right measure of sensitivity or solicitude for suffering. Compassion is then a mean between two extremes: being "too hard" is not having enough sensitivity, and being "too soft" is having too much sensitivity. Thus abstinence advocates would argue that harm reduction is "too soft" and harm reduction advocates would accuse abstinence-based policies of being "too hard."

Aristotle would caution that people with different roles in society should aspire to different degrees of compassion. A military drill sergeant who has to toughen up his charges to face hardship in battle should clearly be, so to speak, more hard than soft. The same could be said of a coach preparing athletes for grueling competition. One could even argue that parents should practice a certain degree of "hardness"; that overly permissive parenting spoils the child. But these are cases where not relieving suffering (i.e., hardness) has

positive results. In the case of harm reduction and abstinence-based programs, the evidence suggests that hardness (the abstinence-based approach) does not seem to have any positive effects and might have significant (unintended) negative consequences. Doing away with harm reduction programs, like supervised injection sites and needle exchange programs, means that more individuals die, become sick, contract HIV, are involved in criminal activity, etc. As a result, one could argue that the rationale for "hardness" is eliminated.

There is, however, an equally important second issue. It is virtuous to promote virtue; it is vicious to promote vice. By implementing harm reduction programs, are we helping people living with problematic substance use become virtuous persons; or are we aiding and abetting vicious behaviour? From the needle exchange literature and the literature on supervised injection sites, it is clear that harm reduction programs do not plausibly lead to an increase in drug use and, in at least some cases, lead to rehabilitation. Therefore, one could argue that compassion is not aiding and abetting, and is the appropriate moral response. If harm reduction programs do not promote substance use but merely tolerate it – there is a difference between these features – and if, instead of making people ill, they relieve the suffering of the ill, they are morally valuable.

Conclusion

This paper does not attempt to provide a critical review of the scientific evidence bearing on harm reduction and abstinence-based programs. Instead, we accept the view that there is extensive evidence that the harm reduction approach is effective and that current policy approaches, which are largely abstinence-based, are ineffective. This does not, however, settle the issue of whether and how the harm reduction approach is ethically justifiable; this is the concern of the present paper. Consequently, we conducted an ethical analysis using three dominant ethical theories. While there are other important theoretical approaches, such as the 'principle' approach of applied ethics, the feminist approach, pragmatism, and ethical theories from other cultures, the three that we discuss are clearly the most influential today, and are the source of many of the principles referred to in contemporary applied ethics.

In conclusion, the major ethical issue we have investigated is how the harm reduction tenet – that individuals need not be required to abstain or at least to attempt to abstain from substance use – might be ethically justified. This value-judgment is clearly justified on Utilitarian grounds because, based on the evidence, harm reduction policies would produce the greatest good for the greatest number. However, Kant would not think that the values guiding harm reduction meet the appropriate ethical standard, because the "raison d'être" of harm reduction is exclusively to prevent negative consequences. While he would likely embrace an abstinence-based approach, consequences would be irrelevant to this judgment.

Virtue Ethics takes account of the social consequences but also the moral character of the agent. The virtue of compassion would provide a strong ethical foundation for at least some harm reduction policies, without requiring recourse to Utilitarianism.

Acknowledgments

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