***‘A world where fewer people smoke is better for everyone’ (Dawson & Verweij, 2010). In view of this, to what extent do you think that the sale and/or use of tobacco should be restricted?***

Whilst the sale and use of tobacco is highly regulated in most countries, questions remain about whether or not such restrictions should be extended. Current regulation usually consists of high tax levies, age restrictions for purchasing and limits on public areas where one may smoke. The ethical justification for such strict controls is primarily the “Millian paradigm” (Dawson & Verweij, 2010:89): in other words, the argument that state control of a product is legitimate “for reasons of preventing harm to others” (ibid: 89). This essay will examine the “harm to others” argument and two other arguments (“the vulnerability argument” & the “justice and equity argument, (Dawson & Verweij, 2010:89-90)) before concluding that, whilst a “world without tobacco would be a better place” (Dawson & Verweij, 2010:89), there exists no practical means to restrict or prohibit the sale of tobacco without causing disproportionate harm to society. However, it will also be argued that further restrictions on tobacco use would be ethically sound but difficult to implement in practice.

The “harm to others” argument is the dominant model for public health policy decisions (Dawson & Verweij, 2010) and has been used to justify a ban on smoking in restaurants, clubs, cinemas and other public places. However, as yet, this justification has mostly not led governments to restrict tobacco use in private spaces. Arguably, the Millian paradigm might be applied to tobacco use in private homes or cars and so on, primarily in order to protect vulnerable individuals, such as children or the elderly who are not choosing to participate in tobacco use. Whilst some would argue that a person has a right to smoke in their own home, it seems also correct to argue that others, for example children, also have the right not to be exposed to dangerous fumes. In fact, some authorities have already banned smoking in cars when children are present (Dawson & Verweij, 2010:89). It seems correct to argue that children’s rights to health should be protected and, therefore, a ban on smoking in their presence seems legitimate, even though implementing this in practice would prove difficult.

However, the Millian paradigm cannot so easily be applied to the sale of cigarettes. It seems reasonable to claim that a prohibition or further price rises on tobacco products would lead to a massive growth in the sale of illegal cigarettes. As is commonly known, black markets are associated with organized crime and an increase in workloads for customs officials. Furthermore, black market products do not have to pass any safety legislation and may, consequently, be dangerous. Arguably, then, further restriction on sale would likely lead to more “harm to others” as the industry goes underground.

Similarly, the other two principal arguments for state interference in public health are justifications only for restriction on use. Firstly, the vulnerability argument justifies a ban for all members of a group if, as a result of the ban, vulnerable members are protected (Dawson & Verweij, 2010). A ban on cigarette use in homes or cars would seem in accordance with this argument as it would protect children (i.e., the vulnerable). However, it is difficult to justify banning the sale of tobacco as the resulting growth in the black market of cigarettes would doubtlessly increase the opportunity for children to purchase cigarettes as regulated tobacco retailers are replaced by unscrupulous dealers.

Secondly, in introducing the justice and equity argument, Dawson and Verweij (2010:90), claim that “the disadvantaged are more likely to smoke”. According to this argument, people in working class communities are unlikely to be able to escape tobacco use due to pressure from their peers and families. However, assuming a black market would be created by prohibition on tobacco sales, individuals from lower-socio economic groups would likely face several difficulties from a ban: potentially more health risks from unregulated tobacco and/or criminalization for continued use. It is difficult to see, therefore, how a ban on sale of tobacco would address the health or social difficulties faced by poorer communities.

In conclusion, whilst further restriction on where one may smoke is legitimate, further restriction on sale is not. Admittedly, there would be many practical difficulties in enforcing a law that forbids smoking in the presence of children; however, it may be worth attempting to create such a law. Prohibiting or further raising the price of tobacco is not justifiable according to any of the ethical principles usually employed by policy makers if we accept the likely result that gangs will occupy the gap in the market left by the departing tobacco retail industry. If we wish to live in a world completely “without tobacco” the only solution would seem to be continued education for children from a young age.