



For Your Own Good? History, Concept, and Ethics of Paternalism

Part I

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1 Introduction

It is fairly uncontroversial, even among liberals, that paternalism, i.e., interferences with a person's freedom or autonomy for their own good (cp. Dworkin 2020, section 2), is justified and called for if this person is not, not yet, or no longer sufficiently autonomous and thus not able to decide and act in her best interest. This applies first and foremost to children and people who are mentally incapacitated, be it temporarily or permanently. However, once people are deemed sufficiently autonomous, liberal consensus states that paternalistic interferences are out of the question (cp. the otherwise opposing seminal authors Kant 1996 [1793], 291; Mill 1977 [1859], 223).

Yet, paternalistic interferences still pervade our lives, be it in the form of certain laws or state actions or of social interaction on various levels. Granted, most if not all of the following examples also allow for an additional justification in terms of other-regarding reasons or practical aims. Yet, it can hardly be denied that they also include a paternalistic understanding. Common trivial examples that also allow for a paternalistic interpretation are the obligation to wear seatbelts when driving or anti-smoking laws to avoid or at least lower one's own risk of serious injury or illness respectively. Especially in the medical context, physicians often still face the expectation to decide and act on behalf of their patients, i.e., to act paternalistically, despite the prominence of the principle of respect for autonomy in medical ethics and getting a patient's informed consent. Moreover, while other-regarding public

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health reasons may also justify nutritional standards for the food industry, they yield a paternalistic impact. In private life, friends and family tend to interfere with our lives if they think we are about to make a mistake that goes against our best interests. Finally, sometimes we even try to act paternalistically toward ourselves—strange as this may sound—e.g., by using technology to manipulate and steer our own behavior toward what we think is best for us but which we would not do if it were not for such manipulations.

Consequently, it is hardly surprising that paternalism never ceased to be the subject of intense debate, spawning various conceptions and arguments (for a general overview, see Dworkin 2020; for the recent debate, see, e.g., Thaler and Sunstein 2003; Coons and Weber 2013; Conly 2013; Dufner and Kühler 2014; Kühler and Nossek 2014; Schramme 2015; Grill and Hanna 2018). Basic theoretical questions amount to paternalism's definition in general. Several different conceptions have been put forward in philosophical debate, and it is far from clear to which of these we should refer to classify certain situations or actions as paternalistic or not. Most prominently, hard paternalism, which even ignores autonomous decisions of persons, has been distinguished from soft paternalism, according to which paternalistic interferences are essentially only meant to check whether a person's decision is sufficiently autonomous or to improve on a person's autonomy. While hard paternalism is, by definition, incompatible with respecting people's autonomy, it has been argued that soft paternalism is justifiable precisely because it is (supposedly) compatible with respecting peoples' autonomy. Moreover, libertarian or nudge paternalism has been suggested not to interfere with peoples' liberty, let alone their autonomy, while still being able to steer people in the direction of their own good.

Against such lines of argument, it has been questioned whether soft paternalism and nudging should count as paternalism at all. Furthermore, regardless of whether to classify such interferences as (soft or nudge) paternalistic or not, they may raise serious ethical concerns of their own, e.g., when it comes to the kind of interferences needed to be able to check whether a person is sufficiently autonomous in the case of soft paternalism, or whether nudging, due to its subtle manipulating nature, may still count as interfering with a person's autonomy. Finally, hard paternalism raises the question of what should count more in cases of conflict: a person's well-being or autonomy, which includes the challenge of whether (respecting a person's) autonomy should be considered an essential part of well-being.

These questions are not only of theoretical or metaethical interest, i.e., how to spell out conceptions of paternalism convincingly and in sufficient detail, but also unavoidably comprise serious practical ethical challenges. Accordingly, there is an ongoing debate on whether, and if so, on what grounds, either of these conceptions may be morally acceptable or even called for in specific contexts or situations.

The contributions to this special issue discuss both the theoretical and the practical ethical dimension of paternalism, with a particular emphasis on the interrelation between theoretical or metaethical analyses, on the one hand, and discussions in various contexts of applied ethics, on the other hand. What implications may certain conceptual analyses and conceptions of paternalism have on specific assessments of concrete situations in applied ethics, and how plausible are these implications, especially when it comes to possible or contested justifications for paternalistic in-

terferences (vs. non-interfering)? Conversely, what can discussions in applied ethics about cases of (apparent) paternalistic interferences tell us about the appropriateness of specific theoretical or metaethical analyses of such cases in terms of conceptions and theoretical distinctions of paternalism? Could they provide us with convincing reasons for criticizing and revising detailed conceptual analyses of paternalism? Finally, what can we learn from historical examples of paternalistic practices for current debate? In addressing these questions, the contributions to this special issue shed further light on the history, concept, and ethics of paternalism.

The special issue is split into two parts. This first part contains two contributions, one by Thomas Gutmann and one by Veselin and Milica Mitrović. The second part, with additional contributions, will be published in the upcoming journal issue.

In this first part, Thomas Gutmann, in his contribution “Liberalism and (How to Avoid) Paternalism” first presents a rough sketch of the core dynamics of the anti-paternalist liberal tradition (from Kant to Dworkin) centered around the notion of normative individualism and protecting the conditions of autonomy as a set of individual rights expressive of one’s sovereignty over oneself. Historically, as Gutmann explains, the liberal tradition starts with a strong anti-paternalist momentum. Gutmann then demonstrates that, within the theory of paternalism, a distinction must be drawn between “personal autonomy” designating a family of ideal, gradual, and hence at least moderately perfectionist conceptions about what an autonomous person is, on the one hand, and what Feinberg calls “autonomy as a right,” on the other. The anti-paternalist liberal tradition, as Gutmann shows, focuses only on “autonomy as a right.” Finally, Gutmann analyzes the so-called “argument from justice,” which claims that paternalistic and anti-paternalistic policies do have distributive effects of their own and might be a matter of distributive fairness, and discusses several options for understanding this claim and its relevance as well as criticizes most autonomy-enhancing approaches for blending out the dialectics of protection and tutelage.

The second contribution, Veselin and Milica Mitrović’s paper “Nesting Paternalism. Patterns of the Paternalistic Behaviour from Neolithization and the Modern Age,” widens the perspective by including historical and sociological findings to paint a broader, exemplary picture of paternalistic practices throughout history. While paternalism can appear with other forms of social actions toward others and ourselves, a particular set of activities may be interpreted as a specific part of paternalistic behavior. The authors then question the hypothesis that some social groups value the benefits provided by leading authorities more than their autonomy. In this regard, exemplary historical and sociological findings are supposed to inform the philosophical discussion on paternalism by broadening the topic’s scope. Firstly, the authors compare archaeological remains from the Early Neolithic (9700-6250 years B.C.), characterized by the appearance of prominent leaders with qualities of modern paternalistic leadership. They both indicate behavior accompanied by a family atmosphere in the workplace. The second data set was obtained through sociological research conducted by the Enquete on the Serbian national sample. A diachronic perspective revealed similar relations between leaders and subordinates at this point. Certain groups with narrowed decision-making autonomy begin to think paternalistically, even though there is a fine line between paternalism, protectionism, and authoritarianism. The main differences between paternalism and other



related concepts (authoritarianism, protectionism, collectivism) are the grade and type of subjects' consent about the action for their own good. The authors argue that stronger collectivistic and authoritarian attitudes enable nesting paternalism, i.e., the gradual acceptance of a paternalistic culture. In this process, an individual sacrifices autonomy for social benefits and integration into the cultural milieu. Nesting paternalism parallels “nesting dolls.” It denotes collateral patronizing behaviors enclosed in another, such as paternalism, protectionism, and authoritarianism. One of the main derivatives of such paternalism is anti-paternalism, which consists of condescending acts to prevent paternalism.

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