

Egalitarian Perspectives on Paternalism.

Richard Arneson 7733 word count

(Not quite final version of essay published in Kalle Grill and Jason Hanna, eds. *Routledge Handbook of the Philosophy of Paternalism*, 2018).

Should egalitarian doctrines of social justice incline us to be more judiciously favorable toward paternalism or more relentlessly opposed to it? The answer is not obvious. It all depends, one might say. It depends on what version of egalitarian justice we are examining and what conception of paternalism we have in mind. This chapter examines the implications of two versions of egalitarianism regarding the moral status of paternalism. One version holds that justice requires bringing it about that all members of society have a fair opportunity to lead a life that is good for them, and holds also that fairness at least pro tanto requires either equality or priority (Temkin 1993, Roemer 1998, Cohen 1989, Arneson 1989, Parfit 1995, Dworkin 2000, Knight 2009, Segall 2013). Call this view *distributive egalitarianism*. The second version is *relational egalitarianism*, which holds that justice requires establishing and sustaining a society in which people relate as equals (Anderson 1999, Scheffler 2003). The examination aims to shed light on the question, under what conditions, if any, is paternalism morally permissible, or required. A secondary aim is to assess the plausibility of the two conceptions of egalitarianism—call them distributive and relational conceptions—by looking at the prescriptions they generate regarding paternalism. The two egalitarian doctrines might be viewed as rival or complementary, and the conclusions we should reach might be that we should accept one doctrine and reject the other, or accept both, or reject both.

Paternalism can occur in private interaction, as when one friend refuses to let another friend swim in a fast-moving stream that will likely drown this weak swimmer. For the most part this chapter concentrates on questions concerning whether and under what conditions governments are morally required or permitted to carry out paternalistic policies or prohibited from doing that.

As readers of this handbook are by now aware, the term “paternalism” is used to refer to different types of policies and behavior patterns. The broad theme is perhaps that paternalistic behavior treats competent adult individuals as though they were still children and incompetent to manage their own lives. Maybe “parentalism” would be a more appropriate label for this type of behavioral stance, but in philosophical discussions of the topic, the term “paternalism” is standardly deployed.

Although much printer’s ink has been spilled in arguments about how best to define “paternalism,” it should be clear that in philosophical discourse this is a nonissue (for a contrary view see Dworkin 2013; and see also Scoccia, this volume). Let each theorist define her terms as she likes. So long as the explanation of what is meant is clear and the theorist consistently sticks to her stipulations as to what notion is linked to each term, there should be no harm in letting a thousand flowers bloom definition-wise. To keep the conversation among theorists simple we can identify paternalism₁, paternalism₂, paternalism₃, and so on. The disagreements that matter here are not definitional but rather normative: disagreements about which actions are morally forbidden, permissible, or required

There are many conceptions of paternalism. This chapter focuses on two. One is the idea that fits easily with Mill’s discussion (1978) of the legitimate limits of social control over the individual in *On Liberty*. On this view, paternalism is restriction of a

person's liberty against her will for her own good. A second conception takes paternalism to be an act by one agent that (1) aims to improve the welfare, interests, values, etc. of another agent with respect to some particular decision or problem that agent faces and that (2) is motivated by a negative judgment about the ability of the person being helped (if well informed) to make the right decision and carry it out successfully (Quong 2011, following in part Shiffrin 2000).

Different conceptions of paternalism highlight different ideas of what is wrong with paternalism (see Stevenson 1938). The broad intent of the highlighting is that at least in philosophical and perhaps in ordinary usage, the term has a negative connotation, and to chime in with usage, paternalism should be characterized so that identifying an act as paternalistic marks it as *prima facie* objectionable (even if it turns out that some or most instances of paternalism should turn out to be justified all things considered). Behind the restriction of liberty conception is the thought that people should be left free to act as they choose in the absence of serious countervailing reasons. Behind the negative judgment conception is the thought that one's status as an equal member of society requires that others treat one as competent to manage one's own life in the absence of serious evidence that one lacks this fundamental competence (or even regardless of evidence, as a fixed presumption). On the first view the issue is wrongful restriction of individual freedom; on the second, the issue is suffering treatment that is disrespectful of one's status as an equal among equals.

Mill's antipaternalism.

One broadly egalitarian justice doctrine that tends toward favoring paternalism emerges from looking at John Stuart Mill's utilitarian argument to the conclusion that society should adopt a strict no-paternalism policy. Mill says, society should adopt a strict rule to regard harm to nonconsenting others as the only valid ground for restricting someone's liberty (Mill 1978). Mill holds that adopting an exceptionless rule to this effect would be utility-maximizing (so better than making decisions on a case by case basis). Assigning to competent adult individuals the prerogative of deciding for themselves in self-regarding matters will be best on the whole because decisions by others or the state overriding the individuals' judgments would be more likely to be wrong than right. When it comes to deciding for oneself what one should do for one's own benefit, the individual usually has access to the information that is needed to make good decisions. The individual herself also has a stronger motive of self-interest to find out the necessary information than others who might presume to override her judgment for her benefit. The individual can also learn from her own mistakes. Moreover, others can learn from the experiments in living that are continuously taking place when people are free to venture on any path they choose when choosing how to live within constraints against causing harm of certain types to others of certain types. Mill must also maintain that state agencies will be inept at distinguishing the few cases in which paternalism would be utility-boosting from the many cases in which it would not.

Mill's claim that adherence to a strict policy of refraining from interference with individual liberty except to prevent harm to others would be utility-maximizing rests ultimately on empirical speculation. The speculation is likely false, but just suppose it is true. This supposition would not close the door on the possibility of justified paternalism. Mill assumes the correctness also of act utilitarianism. For purposes of public policy choice, utilitarianism says that for each candidate competing policy, determine the utility

impact, positive or negative, of adopting that policy, for each person who would be affected by it, sum the results, and select the policy with the highest positive total (or lowest negative total if all possible choices would have disutility).

Distributive egalitarianism.

A range of broadly utilitarian principles would aggregate the utility or welfare impact of candidate policies on individuals by some more egalitarian formula. Rather than maximize the sum of individual welfare, one might opt for making the worst off as well off as possible, or equalizing welfare at the highest feasible level, or following a prioritarian rule, which would assign greater moral value to achieving a welfare gain for a person, the lower the person's lifetime welfare would be absent this gain, and select the policy that would maximize priority-weighted well-being. Another possible view would give priority to achieving some "good enough" or sufficient level of utility or well-being for all.

Consider a government that is contemplating laws that would restrict people's liberty against their will for their own good. The laws will vary in their likely impact on people, depending on how competent people are at choosing and acting in ways that effectively advance their good. There are many dimensions of competence that bear on the degree to which an individual acts with rational prudence. Some of us lack executive ability to carry through the decisions we have made; we suffer from weakness of will and allied defects. We fail to persist; we are feckless. Some of us lack the ability to gather information that is material to choices we will make. Some lack the ability to arrive at sensible evaluations of the value to us of the various outcomes to which actions we might choose might lead. Some of us lack the ability reasonably to integrate such empirical information and evaluative knowledge as we possess into the calculation and deliberation that issues in choice of action. And so on. These differences in different people's value forming, belief forming, decision making, and decision executing capacities all vary by degree. For simplicity we can divide individuals into good choosers and bad choosers according to their rational prudence capacities. Good choosers, with certain minor exceptions, will never stand to gain from paternalistic restriction of their liberty. They will never be tempted by bad options, so restricting their liberty to perform a bad option does not improve their prospects. Options that are fraught, sometimes useful but sometimes dangerous or disadvantageous, are taken up by good choosers only when that is in their interest. For example, if heroin use is left unrestricted, and heroin is available on the market, a good chooser foregoes heroin use except when that use would be, all things considered, advantageous to her. In contrast, bad choosers make mistakes, so their long-term welfare might be boosted by judicious restriction of their liberty in self-regarding matters.

The claim that good choosers cannot benefit from paternalistic restriction of their liberty is subject to at least two qualifications. One is that since we do not assume that even good choosers have limitless computing power, restriction of options available to a good chooser might help her economize on decision making costs and in this way gain improved welfare. Consider a good chooser confronting a huge array of similar brands of toothpaste for sale, each one advertised in complicated but nonfraudulent ways that are time-consuming to take in and assess. I shall assume that this qualification turns out to be not very significant, given the tools that a market will likely make available to reduce

these decision making costs (government agencies might also provide information such as ratings of competing consumer products and services).

Another qualification is that individuals who are good choosers in the sense of being perfectly competent deliberators might not be always dedicated to seeking their own welfare. They might choose to sacrifice their own welfare for altruistic or other moral reasons. So one could boost the well-being of good choosers who are making decisions that are not aimed at maximizing their own welfare, by restricting their liberty in ways that induce them to be more narrowly prudent. However, if good choosers are stipulated to be those who are fully competent at practical reason, then when they act against their own interest, they have good moral reasons for doing so, and no correct moral doctrine will seek to override their own decisions in order coercively to bring about advancement of their own welfare.

In contrast, those who are bad choosers might be less than fully competent not only at determining where their own advantage lies but also at properly balancing the appropriate weight that their own advantage, competing with other moral concerns including altruistic concern for the welfare of others, ought to have in their personal decision making. Bad choosers might wrongly underestimate or overestimate the weight that these moral concerns ought to have. When bad choosers make choices and pursue actions aimed at sacrificing themselves for the sake of others, they will sometimes be failing to exercise morally appropriate prudence, and here too, in principle, paternalistic restriction of their liberty could be devised that would reasonably work to their advantage.

The next premise linking pro-paternalism to egalitarianism states that those who are bad choosers are likely to be badly off over the course of their lives, compared to good choosers, insofar as all are seeking prudently to advance their interests. This is a tendency claim. Some good choosers will be unlucky, and become badly off despite their good choices; some bad choosers will be lucky, and become well off despite their bad choices. Some bad choosers will have high initial bank account wealth as they enter adult life, and other things equal, those with higher bank account wealth will tend to fare better. But on the whole and on the average, we would expect that being a bad chooser—especially if one is very far from the ideal of a prudent agent—will bring it about that one leads a worse than average life.

There is then a potential conflict of interest between good choosers and bad choosers when prudent choice is at issue (Arneson 1997 and 2005). Good choosers will be better off under a regime of no paternalism; bad choosers can be made better off in lifetime welfare terms if paternalistic policies are introduced, provided their administrative and other implementation costs do not outweigh the potential gains. If bad choosers are more likely to be below average in lifetime welfare prospects, then welfarist principles that give extra weight to aiding the worse off will be more pro-paternalist than principles that lack such an egalitarian weighting.

One might suppose that any potential conflict of interest between good choosers and bad choosers with respect to paternalistic public policies could be resolved by designing policies that apply separate rules to the two groups. (If we think of a range of competence levels ranging from good to bad, we could envisage a range of policies treating people with relevantly different characteristics in relevantly different ways). Joel Feinberg (1971 and 1986) provides an example of such policy differentiation. Suppose

some people who decide to commit suicide are reasonably cutting short their lives when further life promises more harm than benefit, and some people who desire to commit suicide are making a mistake in calculating what is really in their long-term interest. Feinberg imagines a state responding to this situation by putting in place suicide control boards. One who is contemplating suicide applies to the board for a license. The board investigates and seeks to determine whether one's deliberative process leading to the decision for suicide is competent or not and on this basis gives or withholds a legal license for suicide. In many actual state policies, something similar occurs. An example: To be able legally to engage in hang-gliding in some jurisdictions, one must pass a test that establishes one has some competence to fly a hang-glider.

To clarify: devising policies that impose paternalistic restrictions only on bad choosers who are likely to benefit from them and that leave good choosers free to act as they like would not be eschewing paternalism, rather embracing it. Such paternalism might include the hard as well as soft variety (hard paternalism prevents individuals, for their own good, from acting even on their substantially voluntary choices). A paternalistic regime that deployed only policies that separate good and bad choosers would be responsive to the welfarist egalitarian objection against strict antipaternalism currently under review.

Separating good from bad choosers and applying different rules to people depending on their level of prudent competence does not entirely promise to resolve the conflict of interest. There are at least two reasons for this. One is that laws and other public policies are and ought to be coarse-grained instruments: To function properly they must group fairly large categories of people together and treat the people classified together the same. Regarding paternalistic restriction of liberty, the administrative costs of operating procedures that sort people finely and specify subtle variations in treatment of people depending on subtle variations in their situations would be excessive by any reasonable moral accounting.

A second reason that limits the degree to which public policies should specify differential treatment of people in fine-grained ways is that such sorting can impose stigma costs that are morally excessive. Consider *stigma* to be a visible sign of low status. There are limits to the degree that we should distinguish more and less competent choosers and accord the more competent greater freedom. Sorting in this way brands the less competent as inferior in a public way, which makes the branded feel badly about themselves and also diminishes their sense of personal efficacy. Sometimes then egalitarian welfarism will dictate that there should be a blanket prohibition of a type of conduct such as recreational use of dangerous drugs like heroin for the sake of bad choosers at the expense of some good choosers who would be better off with no prohibition in place.

Putting the pieces of this argument together, we should acknowledge that egalitarian welfarism will give us extra reasons to favor paternalistic policies in some cases, beyond the reasons that a straight utilitarian welfarism would generate. Whether this amounts to a significant case for paternalism depends on the empirical facts in specific cases, but also more generally on whether (1) utilitarian welfarism is itself morally plausible and (2) whether the tweaking of this welfarism by an egalitarian distributive norm enhances its moral plausibility.

As to (1), I submit that welfarism is indeed plausible. *Welfarism* is the claim that the ultimate moral justification of any acceptable state policy consists entirely in the promotion of the welfare or well-being of individual persons and other sentient beings together with the fair distribution of welfare across individuals. The idea is that if the state is fair to everyone in these terms, it is fair to everyone, period. Perhaps the state sometimes is morally bound to assist people in their pursuit of goals other than their own welfare, but when this is so, the ultimate ground of the duty of the state to be of assistance is the welfare of those who will benefit from these non-self-interested endeavors. If the state is bound to help me in my quest to save the whales, this is not for my sake, but for the sake of the welfare of the whales whose life prospects are at stake.

Welfarism is strong medicine—a powerful and controversial claim. Distributive egalitarianism could incorporate a weaker version of the claim—*weak welfarism*, understood as the claim that an important component of the ultimate justification of the ensemble of acceptable state policies consists in the promotion of the welfare or well-being of individual persons and other sentient beings together with the fair distribution of welfare across individuals. Egalitarianism coupled with weak welfarism will tilt more favorably toward paternalism than would weak welfarism with no egalitarian commitment.

To give welfarism a fair hearing, one must conjoin the doctrine to the most plausible conception of welfare (or of what makes an individual's life go better for that very individual) that one can identify. If welfare is identified with the experience of pleasure, one might doubt whether it is really permissible to coerce someone in order to bring it about that the person experiences greater pleasure over the long run, when the person's considered judgment is that getting pleasure is less important to her than attaining significant achievement and maintaining loving relationships. The objection to coercing here might rest on the implausibility of a hedonistic view of welfare rather than on the in-principle wrongness of coercing someone for her own good.

Consider in this connection objections to paternalism that appeal to the value of individual autonomy. Some such objections, though not all, are dampened if autonomy is rightly regarded as a significant component of an individual's welfare. Suppose that a person lives better, pro tanto, if she pursues and achieves goals that she adopts for herself after reflective scrutiny and thereby attains autonomy. If this is so, then restricting her freedom for her own good at the expense of her autonomy will sometimes be wrong simply because the loss in autonomy she would suffer would outweigh the gains in other components of her welfare the contemplated restriction will bring about. If autonomy is deemed an important component of an individual's welfare, then promoting an individual's welfare and promoting her autonomy will often imply similar actions, though sometimes they will conflict. Moreover, sometimes promoting the person's autonomy and along with it her welfare will require paternalistic restriction. This can happen if the person left free to act as she chooses would make choices that will reduce her lifetime autonomy.

Objections to paternalism that appeal to autonomy might have a quite different character. They might be appeals to a deontological constraint on our pursuit of welfare for others. For example, one might hold that people have an interest in being autonomous, that is, conforming their conduct to norms they accept after critical scrutiny, and one might hold that everyone has a significant though not exceptionless moral right

to act according to one's autonomous choices. Autonomy so construed could ground objections to paternalism even when it is uncontroversially so that the paternalism would advance the welfare of the individual subjected to it. Jane might have a moral right to act on her autonomous choice to sacrifice herself for the sake of her community, even if this would lower her long-term welfare and this loss would not be offset by gains to other people's welfare. Jane's right to autonomy might underpin her moral right to act on her autonomous judgment, up to a point, even if her judgment is mistaken. Jane's right to autonomy might underpin her moral right to act on her autonomous judgment, which is not based on any mistaken calculation of the welfare gains and losses her act would bring about but rather based on her judgment that some things matter morally other than the welfare gains and losses accruing to individual persons.

The autonomy objection to paternalism just mentioned depends for its force on the rejection of strong welfarism. The welfarist will have to insist that autonomy as reflective self-rule either is better regarded as a component of individual welfare or as a norm that is not in itself morally valuable but rather an important tool for bringing about long-term boosts in welfare fairly distributed across persons. When acting on one's reflective best judgment would worsen the long-term welfare of the individual without bringing about more than compensating gains for others, autonomy should not be thought to bar restriction of individual liberty for the individual's own good.

Return to (2), as stated seven paragraphs back. We first need to clarify the egalitarian idea in play here. Egalitarianism prefers more equal to less equal distributions of welfare across persons (This is an incompletely determinate norm; not all distributions can be ranked on a scale from more to less equal.) I shall also count as egalitarian doctrines, ones that attach greater moral value to achieving a gain in welfare of a given size for a person, the worse off the person would otherwise be in terms of lifetime welfare. These doctrines are called *prioritarian* (Parfit 1995). On both types of view, the guiding thought is that there is greater moral reason to bring about a small gain in well-being, or to avoid a small loss, for a homeless mentally ill person whose life is overall bleak than for a lucky wealthy person whose life is overall richly fulfilling. Egalitarianism so characterized might be qualified by a personal responsibility proviso, which stipulates that being badly off than others through no fault of one's own should trigger extra moral reasons to aid.

Some egalitarian distributive views that do not take welfare or individual well-being or good for a person as the equalisandum might also end up tilting more strongly in favor of paternalism than straight maximizing utilitarianism. But this will not generally hold. Suppose one believes that justice requires equalizing the resources or general-purpose means available to individuals as they begin adult life. Ronald Dworkin (2000) adopts a sophisticated variant of this justice ideal. Justice so conceived might be combined with rejection of paternalism: no restriction of someone's liberty against her will for her own good is ever morally permissible, one might hold. One might hold that beyond its responsibility to provide a fair distribution of resources, it is the job of each individual, and not the proper business of the state, to decide how to live so as to secure a good life.

Relational egalitarianism.

Relational egalitarianism will lead to different, and often, opposed assessments of the moral status—permissible, mandatory, or prohibited—of paternalism. Relational

egalitarianism identifies social justice, or at least a large component of social justice, with the creation and maintenance of egalitarian social relationships, relationships in which the participants relate as equals. This is a broad umbrella characterization, which covers many different ideals, depending on what counts as relating as equals and on what sorts of relationships are specified as ones that ought to involve relating as equals.

To illustrate how relational egalitarianism might issue in different verdicts about the moral status of paternalistic policies from those implied by distributive egalitarianism, consider the example of imposing blood transfusions on hospitalized adult members of the Jehovah's Witnesses religion, who believe that having one's blood tampered by transfusion will have disastrous consequences for one in the afterlife, and on this basis reject medical procedures that involve blood transfusions. A public policy of imposing blood transfusions whenever they are medically advisable and paying no heed to people's religious objections to the procedure might well result in avoidance of hospital care by Jehovah's Witnesses, to their medical detriment, so that respecting their will in this regard might be the best policy from a distributive egalitarian standpoint. But from a distributive egalitarian perspective, it is in principle acceptable to override the will of an individual in matters that affect only her, if overriding would boost her welfare without triggering other adverse consequences that would outweigh the welfare boost. A relational egalitarian might hold that this stance on the part of private individuals or public officials is incompatible with respecting the status of free and equal persons.

On the other hand, if relational egalitarianism is construed as requiring that the conditions in which all can relate as equals be continuously maintained, we can envisage possible scenarios in which individuals act in self-harming ways that undermine these conditions of social equality. Restricting people's liberty against their will for their own good might then work to sustain conditions of social equality. Policies that are paternalistic in the adverse-judgment sense might fulfill the same function. Relational egalitarianism can in this way justify paternalistic state policies. For example, Elizabeth Anderson (1999) holds that a just society sustains for each individual conditions that give her access to the capabilities needed for functioning as a full participating member of democratic society. Individuals left free might decline to save for old age, might engage in unhealthy lifestyles that greatly increase their chances of being afflicted by debilitating medical conditions, might let their job skills deteriorate to the point of threatening their ability to earn a livelihood, might gravitate toward idiosyncratic beliefs that lead them not to care about important components of their good such as friendship and family ties, and so on. Capability sufficiency for all might require policies that restrict or prohibit or mandate certain behaviors by them for their own good.

One might deny this last claim on the ground that whether a policy counts as paternalistic depends on its motivation, and a policy of restricting people's liberty so as to maintain capability sufficiency for all is not restricting people's liberty for their own good but rather precisely maintaining the social condition of sufficiency for all (Anderson 1999). However, this stance opens the door to lots of restriction that usually gets classified as paternalistic—barring heroin and other dangerous recreational drugs, barring greasy fried foods and sugary drinks that are inimical to health, barring lifestyles such as being a couch potato (too unhealthy) or playing extreme sports (too risky) might all be justified as necessary to maintain long-term capability sufficiency for all. If someone targeted for such restriction of liberty is not allowed to exempt herself on the

ground that her considered judgment is that she prefers to live in ways that might result in her falling into a state of capability insufficiency, I submit the policy that takes this form is tantamount to paternalism.

If relating as equals is deemed to forbid paternalistic policies, the relational egalitarian facing the problems described in the previous paragraph would be constrained to address them by restoring conditions of social equality that self-harming behaviors erode without in any way restricting the self-harming behaviors. This takes us back to the issue whether or not respecting adult (normal, nonimpaired) citizens as free and equal, or as possessing equal basic dignity, rules out paternalistic interference or manipulation. Here is an argument to that conclusion. The argument is drawn from Quong (2011).

1. The state is morally bound to accord its normal adult citizens the status of free and equal citizens.

2. If the state accords its normal adult citizens the status of free and equal citizens, the state treats those with the status as competent to manage their own lives.

3. Paternalistic action and policy carried out by the state treat some normal adult citizens as incompetent to manage their own lives.

4. Paternalistic action and policy carried out by the state fail to accord its normal adult citizens the status of free and equal citizens.

- So, 5. The state is morally bound to refrain from imposing paternalistic action and policy on normal adult citizens.

This argument might be run either with the conception of paternalism as restriction of an individual's liberty against her will for her own good or with the conception of paternalism as action that aims to benefit an individual in some situation and that is motivated by an adverse judgment about the individual's ability to manage the situation competently for her own benefit. Either way, the relational egalitarian holds that in a society in which people relate as equals, an important component of this ideal is respectful treatment of everyone as free and equal by the state.

The relational egalitarian might hold that there is a stronger moral constraint against paternalism practiced by the state than against paternalism carried out among private individuals. The difference is that an individual, for example, will sometimes have reliable detailed information about what will serve his friend's interests in a situation, and will come by this reliable information in morally innocent ways. The individual can know enough to override the friend's judgment. In contrast, the state and its public officials will either not be in a good epistemic position to make a comparable judgment, or will be in the required good epistemic position only by taking actions that violate the person's right to privacy and hence should not be taken (Coons and Weber 2013: 14).

The idea of a free and equal person invoked in this argument is drawn from Rawls (1996). Ordinary citizens are free in having the moral powers to play fair with others and to adopt and follow and rethink a conception of good, and equal in having these powers at a threshold or good enough level. So understood, premise 1 should be accepted.

However, premises 2 and 3 are problematic. The level of competence required to manage situations adequately varies from situation to situation. There are particular situations we may face, and types of recurring situations we may face, that may require a high level of competence, which some or many of us may lack. So the state's treating me

as incompetent with respect to some area of my life need not involve denial of my status as free and equal as just characterized.

Moreover, according to an individual the status of equal citizen, with an equal right to vote and stand for public office, along with other rights of basic citizenship, is compatible with judging the individual sufficiently lacking in competence for prudential agency to render some paternalism justifiable. So 4 should also be rejected.

To explore what the relational egalitarian might find to be problematic about paternalism, it will help to clarify the idea of equal status that might be thought to be threatened by paternalistic treatment. We should distinguish an offense against one's objective status as an equal citizen and member of society from one's subjective feelings of hurt or upset aroused by treatment accorded one by others that one perceives as insulting. The former involves an assurance, provided by how others regard one and treat one, that one is a member in good standing, entitled to basic justice and fundamental rights, someone whose interests should count for as much as anyone else's comparable interests in the determination of public policy. Jeremy Waldron affirms that one's dignity in this sense can be denied by hate speech such as racist epithets (Waldron 2012). Someone might hold that being the target of paternalistic treatment is in a similar way a denial of dignity and an offense against equal status.

But there is room to agree that dignitary harms can warrant legal protection to sustain the basic equality of citizens and yet to deny that paternalism, when based on reasonable adverse judgment about some aspect of some or all citizens' prudential abilities, and reasonably designed to prevent welfare shortfalls from arising from these deficits, qualifies as an offense against equal dignity (see de Marneffe 2006 for relevant discussion). The individual who is the target of paternalistic policy need not be regarded as lacking the traits that confer personhood status. Nor need her interests be discounted, as compared to the interests of other members of society—in fact counting her interests as just as worthwhile as the interests of others may require paternalism to promote her interests. The target of paternalism need not be denied equal citizenship status, or deemed unentitled to social justice. If she is being treated as less than an equal at all, this consists just in her being viewed as apt for paternalistic treatment—but it would beg the question flatly to assume that this violates the requirement to regard all persons as sharing an equal basic status.

The argument would have to proceed in the opposite direction. If on independent grounds one holds that each person has a right of self-sovereignty, a right to control her own life when her choices mainly affect herself, one might then infer that violating this right of self-sovereignty would be wrongfully disrespectful and should count as failing to treat the violated person as an equal (Feinberg 1986, and for criticism Arneson 2005). Or if paternalism is taken to be fundamentally treating someone as less than competent (in some particular ways), then one needs an argument that paternalism so construed is always wrong, before it would be plausible that paternalistic treatment of a person is in itself wrongfully disrespectful.

Regarding the latter construal, note that this negative judgment characterization of wrongful paternalism surely needs to be qualified, or else it is a nonstarter. Suppose I am climbing and break my leg. My partner quietly takes my pack from me and shoulders it himself as we limp down the mountain together. His treatment of me is motivated by a clearly and obviously justified negative judgment about my competence to make my way

down the mountain without assistance. There's no insult here, much less wrongful insult; and no *prima facie* indicator of insult. We cannot easily fix the formulation by specifying that to qualify as paternalistic, the negative judgment motivating the treatment accorded to an individual must be unjustified (or unjustified given the evidence available to the agent according to the treatment). The proponent of this idea of paternalism evidently has it in mind that within one's proper sphere of authority, others should not be questioning one's competence, whether their negative judgments would be warranted or unwarranted.

But why is questioning my competence wrongful to me if the judgment that I am incompetent in this way is well-grounded? One might hold the contrary view, that treating someone on the basis of correct (or evidence-relative reasonable) empirical beliefs about his nature and circumstances is never in itself wrongfully disrespectful. If I am a bad parent, an ill-informed voter, a poor judge of what is good for me and how to attain what is good for me, and so on, treating me on the basis of these facts is never in itself inappropriate.

In passing, I note that the negative judgment characterization as stated here is too quick to dismiss the idea that provision of information that is material to choice or more broadly, attempts at rational persuasion, cannot be problematically paternalistic. The negative judgment characterization manages the dismissal by requiring that the negative judgment about an individual that renders the treatment that follows paternalistic must be a negative judgment about the person's competence if fully informed. But treatment of a person might be thought to be objectionably paternalistic by virtue of proceeding from an unduly negative judgment about her competence to become appropriately informed about the situation (Tsai 2014). Trusting a person's competence to manage a situation usually includes trust in her competence to gather information and integrate it into her decision process.

Regarding the former construal, one might allow that forcing someone for her own good to do what she does not want to do can undermine her self-confidence and the confidence that others place in her, be experienced as unpleasant and demeaning, and often lead to other bads. Still, these acknowledgements would not plausibly ground a right of self-sovereignty, much less an absolute and exceptionless right. Taking into account all relevant negative and positive effects, restricting a person's liberty for her own good can make her life go better, in overall well-being, and sometimes radically improve her lifetime well-being. Since the right of self-sovereignty and the right to good well-being prospects are starkly opposed, supporting moral duties along the lines of the latter requires denying the claimed right of self-sovereignty.

Perhaps paternalism in itself (whether viewed as restricting someone's liberty against her will for her own good or as basing policies directed at people on adverse judgments about their competence) is not necessarily in conflict with the norm of treating all persons as social equals and as beings with dignity, but certain forms of paternalism might express or promote wrongful hierarchy according to relational egalitarian norms. For example, being denied wide freedom of choice in central areas of one's life such as romance and marriage, sexual activity, family relations, occupation and employment, friendship, and so on might be deemed incompatible with equal status. Those who are partial to the allowed narrow ranges of these types of activities are being treated as superior to those whose fundamental freedoms are tightly restricted. Another example

might be narrowly targeted restrictions that give the plausible appearance of disrespectful animus toward particular groups.

It remains to consider the claim that even if paternalism in the relations among private individuals might be acceptable, state paternalism will always either be treating people on the basis of general presumptions, which might not apply to the individual case, or would have to involve state action to gather detailed particular information about individuals, which would violate their rights to privacy. Either way, the paternalism is disrespectful and wrong and has no place in a society of equals.

This dilemma, I suggest, is not sharp. First, given that most laws must be coarse-grained, and treat broad categories of people the same, it may be fair sometimes to prohibit a type of activity for the benefit of those whose liberty is restricted, even if some in the target group will be made worse off not better off. The losses to these individuals may be fair in view of the gains to others. Second, it is an open question to what extent, in any given policy domain, it is possible or feasible for the government to gain relevant information about individuals who might be affected by policies it might choose that would sort these individuals into different categories receiving substantially different treatment. It also varies from case to case, to what degree the information that would be needed to sort people in a fine-grained way for policy purposes can be obtained, and if obtainable, can only be obtained by wrongful intrusion into people's private affairs.

Consider the possibility that by committing an antisocial criminal act that merits criminal punishment, an individual thereby incidentally reveals that he is probably making a mess of his life and failing also in prudential terms, and so may be punished, in part, with a view to improving his prudential prospects, even though it would have been wrong to impose coercively on him for his own good in this way had he not forfeited some of his rights by this criminal wrongdoing. Here the individual reveals by his conduct information about himself that arguably makes him more apt for paternalistic restriction. The state does not need to collect special information about him much less invade his privacy to get the information. Much the same would be true if the state established a standing policy whereby filing for personal bankruptcy triggers paternalistic state-imposed instruction in personal financial management.

Relational egalitarianism reaffirmed and restated.

The discussion in the previous section has criticized claims that relational egalitarianism plausibly construed rules out all paternalism. Whether these criticisms succeed or fail, they do not gainsay the assertion that plausible versions of relational egalitarianism will oppose instances and types of paternalism that welfarist distributive egalitarianism embraces.

What is it to hold that people ought to relate as equals? This slogan requires interpretation. One might take an antipaternalist position to be component of what relating as equals involves. On this view, each person equally has her own life to live. She has duties, perhaps extensive and stringent duties, to refrain from harming others and indeed to assist them so they have freedom and resources to live in any of many significantly different ways. But each person has a nondelegable duty to form her own conception of the good life and to pursue it as she chooses by plans of her own devising (Dworkin 2000, chap. 6). Some paternalistic restriction of liberty might help an individual to live freely in her own considered way, so an exceptionless moral rule barring us from restricting a person's liberty for her own good or from acting on the basis

of adverse judgments of her competence are implausible. But in a society of equals, people affirm and pursue different ideas of the good, and there is no single standard of objective well-being that can override the individual's choice of life plan pursuing goods as she weights them and goals that she herself embraces. Moreover, within a broad range, one's right to pursue one's own good in one's own way is not conditional on being prudentially competent. In a society of equals, we all extend the same basic rights of self-regarding freedom to all regardless of their choice-making and choice-executing talents.

From a welfarist standpoint, the world in which relational egalitarianism is perfectly fulfilled might well turn out to be one disastrously low in well-being. People lead squalid lives and people with poor native endowments of prudential competence will end up leading especially bad lives. We have strong duties to help save people in peril, and the relational egalitarian ideal interpreted in this antipaternalist fashion is just an ideology that distracts us from these duties or even worse, wrongly tilts in favor of better-off individuals at the expense of the worse off.

The distributive egalitarian might insist that equality in power, rank, standing and status are under modern conditions often instrumentally valuable means to distributive egalitarian goals, but not morally valuable in themselves. But this just restates the opposition between relational and distributive egalitarianism and does not resolve it. From the relational egalitarian standpoint, the welfarist egalitarian fails to register and respect the norm of equal liberty for all, as the substance of justice not merely as a possible tool for achieving it. As the philosopher Brian Barry once remarked, one man's *reductio ad absurdum* is another's *Q.E.D.*

References.

- Anderson, E., (1999) "What Is the Point of Equality?," *Ethics* 109, 287-337.
- Arneson, R. (1989) "Equality and Equal Opportunity for Welfare," *Philosophical Studies* 56, 77-93.
- Arneson, R. (1997), "Paternalism, Utility, and Fairness," reprinted in G. Dworkin (ed.), *Mill's 'On Liberty': Critical Essays*, Lanham, Maryland: Rowman and Littlefield.
- Arneson, R. (2005) "Joel Feinberg and the Justification of Hard Paternalism," *Legal Theory* 11, 259-284.
- Cohen, G. (1989) "On the Currency of Egalitarian Justice," *Ethics* 99, 906-944.
- Coons, C. and Weber, M. (2013), "Introduction: Paternalism—Issues and Trends" in Coons and Weber (eds.), *Paternalism: Theory and Practice*, Cambridge Cambridge University Press.
- De Marneffe, P. (2006) "Avoiding Paternalism," *Philosophy and Public Affairs* 34, 68-94.
- Dworkin, G. (2016) "Paternalism," in E. Zalta (ed)., *The Stanford Encyclopedia of Philosophy*. <http://plato.stanford.edu/archives/sum2016/entries/paternalism>.
- Dworkin, G. (2013) "Defining Paternalism," in C. Coons and M. Weber (eds), *Paternalism: Theory and Practice*, Cambridge: Cambridge University Press.
- Dworkin, R. (2000) *Sovereign Virtue: The Theory and Practice of Equality*, Cambridge, MA: Harvard University Press.
- Feinberg, J. (1971) "Legal Paternalism," *Canadian Journal of Philosophy* 1, 105-124.

- Feinberg, J. (1986) *Harm to Self*, Oxford: Oxford University Press.
- Knight, C. (2009) *Luck Egalitarianism: Equality, Responsibility, and Justice*, Edinburgh: Edinburgh University Press.
- Mill, J. (1978) *On Liberty*, E. Rapaport (ed), Indianapolis, IN: Hackett. Originally published 1859.
- Parfit, D. (1995) *Equality or Priority?*, Department of Philosophy: University of Kansas.
- Quong, J. (2011). *Liberalism without Perfection*, Oxford: Oxford University Press.
- Rawls, J. (1996) *Political Liberalism*, New York: Columbia University Press.
- Roemer, J. (1998) *Equality of Opportunity* Cambridge, MA: Harvard University Press.
- Scheffler, S. (2003) "What Is Egalitarianism?", *Philosophy and Public Affairs* 31, 5-39.
- Segall, S. (2013) *Equality and Opportunity*, Oxford: Oxford University Press.
- Shiffrin, S. (2000) "Paternalism, Unconscionability Doctrine, and Accommodation," *Philosophy and Public Affairs* 29, 205-250.
- Stevenson, C. (1938) "Persuasive Definitions" *Mind* 47, 331-350.
- Temkin, L. (1993) *Inequality*, Oxford: Oxford University Press.
- Tsai, G. (2014) "Rational Persuasion as Paternalism," *Philosophy and Public Affairs* 42, 78-112.
- Waldron, J. (2012) *The Harm in Hate Speech*, Cambridge, MA: Harvard University Press.