

Making people be healthy

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ABSTRACT

How are we supposed to decide the rights and wrongs of banning smoking in bars, restricting adverts for junk food, nagging people into being screened for cancers, or banning the sale of party pills? The aim of this paper is to think through the political ethics of trying to make people healthier through influencing or restricting their choices. This paper covers: (1) Paternalism. What it is, what it assumes. (2) The place of health in well-being, and how this makes paternalism problematic. (3) The mistakes people make in acting in their own interests, and the implications for pro-health paternalism. (4) Autonomy objections to paternalism. The paper (5) finishes on a note of hope, by commending the currently fashionable libertarian paternalism: trying to have one's carrot cake and eat it too. A persistent theme is that thinking sensibly about making people healthier needs subtlety, not broad, ringing declarations.

KEYWORDS: Paternalism; nanny state; health; autonomy; rational choice

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Paternalism

I begin by categorising reasons for government action. Governments use their coercive power to prevent some people *harming others*. In the context of public health, an obvious example is compulsory isolation to stop the seriously diseased spreading their germs to others. Governments levy compulsory taxes in the

interests of *distributive justice*, such as when, for example, they fund health care that poor people would be otherwise unable to afford. Governments also provide *public goods*, like clean water, that free markets do not provide well and, again, they do this through compulsory taxes. And governments act *paternalistically*, understood in political philosophy as trying to steer people into doing what is good for them. One paternalistic method is coercion; that is, threats backed up by force. The legal drinking age is an example. Another method is manipulation, through misleading or outright untrue statements (there is no uncontentious example of this, and I do not want to distract attention by giving a contentious one). Giving good reasons for action and persuading people is not manipulation; fibbing and exaggerating is.

Note that one may try to justify policies under more than one heading. Making people wear helmets on motorbikes is defended both because it helps save them from harm and because it spares the taxpayer the burden of paying for them if they fall off without a helmet.

This paper focuses on paternalism. By definition, paternalism aims at the good of the people it targets. The core idea is that if people are left to choose for themselves from an unregulated menu:

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The **ETHICS** column explores issues around practising ethically in primary health care and aims to encourage thoughtfulness about ethical dilemmas that we may face.

THIS ISSUE: Ethicist Martin Wilkinson explores the ethics around whether the state should have the right to attempt making people healthier through influencing or restricting their choices.

1. they will make mistakes
2. which are bad for *their* welfare, and
3. this justifies in some way preventing them making those choices.

Before exploring these ideas in the context of health and safety, let me make some initial points. First, set children aside and think only of adults who would be considered competent in health care. Everyone agrees with paternalism of some kind towards small children, at least. Second, bear in mind that, if people make mistakes, policy makers are also people, so maybe they make mistakes too. Goodness knows, government policies can and often do go wrong. In any case, we should be careful of giving power to the state, particularly power subject to vague accountability standards.

Health and well-being

To justify paternalism in health, we have to point to some mistake people are making in their choices. Moreover, we need to be able say they should have chosen more health instead. It is always going to be hard to do this.

Health is important as a component of well-being (understood as life going well). Exactly how this should be spelled out depends on how we understand health and well-being, but on any sensible view of either, people trade off health against other goods. They risk injury for the sake of sport, death through flying or driving etc. and the risks need not be irrational because health is only part of a worthwhile life. If we then ask how important health is and when some part of it is worth trading off, there is surely no single answer that applies to everyone. The importance of some health improvement depends on individual details. Consider choosing between loss of all leg function for certain or an operation with a p chance of total mobility and $1-p$ chance of death. For what value of p is the operation a

good bet? To me, this clearly depends on details about the person. Every time I ask large groups, people's choices vary greatly. Some would take the operation even with only a 10% chance of full leg function (and so a 90% chance of death). Others would not take the operation even with a 1% chance of death. How could we take seriously someone who said 'the correct answer is 34% and anyone who says otherwise is wrong'? But if we accept that health is subject to trade-offs and that trade-offs vary from person to person, defending some pro-health paternalistic action is going to be hard. Even if it makes people healthier, why think coercing or manipulating people would genuinely make people better off? A health gain may not make people net

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better off and, even if it makes some better off, it may be a net loss for others.

But people are hardly infallible about their interests. They may not even be the best judges of their own interests. A sprouting literature in cognitive psychology and behavioural economics points to the predictable mistakes people make. People have status quo bias. They will not change what they do even when they clearly should. They procrastinate—'I'll give up smoking tomorrow, go to the gym tomorrow, etc.' People are bad at probability judgements. To take an example richly exploited in media health scares, they are swayed by framing. They are more likely to take a pill if it is described as cutting a risk in half rather than cutting a risk from 0.1% to 0.05%. People don't delay gratification, preferring much smaller short-run benefits.

They are weak-willed, preferring A to B but picking B (another cigarette, another ice cream). They deceive themselves ('It won't happen to me, so I don't need to get my blood pressure under control').

However, even assuming people are victims to failures in choice, pro-health paternalism does not immediately follow. Perhaps the errors lead people to overrate health—panics about cell phone use may well be an example. As I said at the start of this section, defending paternalism requires not only showing that people have made a mistake, but also showing what they should have chosen instead.

We can see why ringing declarations are out of place. 'People must be saved

from risking their health'—but why think they would be better off for being saved, even assuming they could be? 'People are the best judges of their own interests'—well, what about all the evidence of the mistakes they make? Instead of quick support or criticism, there should be a programme of enquiry for a proposed paternalistic policy: does it actually correct some error that people predictably make? What should they have chosen instead, and why?

Autonomy and the value of one's own choosing

Paternalism, by definition, tries to make people better off, and it does this by bypassing their choices in some way. We have asked: why think people would actually be better off? But we should ask another question: why may the state

interfere with people's lives, even if it would make them better off?

Consider the example of marriage and compulsory computer-dating. Suppose evidence shows computers match people better than they can themselves. Few would think that free choice of spouse should then be removed and replaced by a paternalistic state marriage bureau. Suppose you know your friends, colleagues, (grown-up) children are going to marry the wrong person, lock themselves into the wrong degree, or take the wrong job. These are all serious ways in which people can worsen their own lives, much more than slumping on a couch, eating a pie, having a fourth beer, even having a cigarette. Trying to

to have to take my chances or waste my time finding out who provides safe food. Many smokers want to quit, and some would welcome the removal of temptation. When we want the state to remove an option, removing does not conflict with our free choice precisely because we want it.

Some people may want restrictions on their own choice, but others will not. Any policy of restrictions could be good for some and bad for others. Indeed, this is true of paternalism generally. Taxing alcohol is bad for moderate drinkers even if it discourages excess consumption by the immoderate. Being good for some and bad for others raises a question of distributive justice which I do not think has been

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persuade them is fine, if sometimes unwise. But would you lie about the likely spouse, or use force to prevent them signing up for the degree or the job? (You are supposed to answer 'no'). And if you did it to a stranger, would you not be an appalling busybody? In the first place, people want to make their lives for themselves; that is, be autonomous. In the second, it is disrespectful to treat people as incompetent when they are not. So these are reasons against some paternalism even when people really are making mistakes with their lives.

Sometimes these anti-paternalist reasons do not apply. Some of the ways the state may interfere with choice are ones that people welcome, and are not really paternalistic. In my own case, I welcome most food safety requirements (not that on unpasteurised cheese). I do not want

properly confronted, still less resolved (and it will not be resolved by me now).

Again, note the absence of ringing declaration. 'People have the right to choose for themselves'—and what if they want the choice taken out of their hands? 'People will only regret it if they are not healthy'—but we would not interfere with just any choices they would regret, so why unhealthy choices specifically?

Nudging and libertarian paternalism

I want to finish with a mention of a recent strain of thought called 'libertarian paternalism', best known in Richard Thaler and Cass Sunstein's 2008 book *Nudge*.¹ The central idea of *Nudge* is that 'small and apparently insignificant details can have major impacts on peo-

ple's behavior' (p.3). To take their initial example, simply changing the location of fruit and vegetables in cafeterias affects how much real people buy. If people were 'Econs', with well-defined preferences, strong willpower, and great skill in reasoning, small changes would make no difference. Econs who want pies instead of apples would just look slightly harder and buy a pie. But people are 'humans'; they make all sorts of mistakes in reasoning and they often fail to stick with their decisions. In the case of the food, they are swayed by the order in which the options are presented. *Nudge* recommends taking advantage of the predictable deviant ways in which people make choices. So put the fruit first. Putting the fruit first does not mean taxing the pies or making them illegal. People can still buy pies. The thought is: we can steer people into what is good for them without taking away their choices. This is 'libertarian paternalism'; libertarian because it respects choice and paternalistic because it aims to steer people's choices in their own interests.

Nudging arguably does not infringe on anyone's autonomy or disrespect them. Nor is it bad for anyone because people who know what they want can still choose as they wish, so the distributive justice problem largely evaporates. It is well worth thinking harder *how* non-coercive nudging could apply to health. Making stairs available in public buildings is an obvious example, but imaginative workers in public health could think up a lot more. There is also still the problem of whether people are actually better off for being steered—recall the earlier points about the place of health in well-being. This is perhaps a matter for imaginative philosophers to think about.

Reference

1. Thaler R and Sunstein CR. *Nudge: Improving decisions about health, wealth, and happiness*. New Haven and London: Yale University Press; 2008. p 3.