Anti-paternalism

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Abstract


This is a thesis about anti-paternalism – the liberal doctrine that we may not interfere with a person’s liberty for her own good. Empirical circumstances and moral values may certainly give us reason to avoid benevolent interference. Anti-paternalism as a normative doctrine should, however, be rejected.

Essay I concerns the definitions of paternalism and anti-paternalism. It is argued that only a definition of paternalism in terms of compound reason-actions can accommodate its special moral properties. Definitions in terms of actions, common in the literature, cannot. It is argued, furthermore, that in specifying the reason-actions in further detail, the notion of what is self-regarding, as opposed to other-regarding, is irrelevant, contrary to received opinion.

Essay II starts out with the definition of paternalism defended in essay I and claims that however this very general definition is specified, anti-paternalism is unreasonable and should be rejected. Anti-paternalism is the position that certain reasons – referring one way or the other to the good of a person, give no valid normative support to certain actions – some kind of interferences with the same person. Since the reasons in question are normally quite legitimate and important reasons for action, a convincing argument for anti-paternalism must explain why they are invalid in cases of interference. A closer look at the reasons and actions in question provides no basis for such an explanation.

Essay III considers a concrete case of benevolent interference – the withholding of information concerning uncertain threats to public health in the public’s best interest. Such a policy has been suggested in relation to the European Commission’s proposed new system for the Registration, Evaluation, and Authorisation of Chemicals (REACH). Information about uncertain threats to health from chemicals would allegedly spread anxiety and depression and thus do more harm than good. The avoidance of negative health effects is accepted as a legitimate and good reason for withholding of information, thus respecting the conclusion of essay II, that anti-paternalism should be rejected. Other reasons, however, tip the balance in favour of making the information available. These reasons include the net effects on knowledge, psychological effects, effects on private decisions and effects on political decisions.

Keywords: Paternalism; Anti-paternalism; Private Sphere; Self-regarding; Harm principle; Interference; Reasons; Actions; Reason-actions; Epistemic paternalism; Public health; Withholding of information; Uncertain information; MCS (multiple chemical sensitivity).
List of Essays

This licentiate thesis consists of an introduction and three essays:

• Kalle Grill, Paternalism and private spheres. Submitted manuscript.

• Kalle Grill, Against anti-paternalism. Submitted manuscript.

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Introduction

There are many ways to approach paternalism. As is often the case in philosophy, the concept itself has no core content that is generally agreed upon. A standard definition is interference with a person’s liberty, against her will, for her good.¹ Each of these three components may however be interpreted in a variety of ways. Investigations of paternalism may be more or less focused on conceptual analysis. The main focus of this thesis is on ethical analysis and argument. The definition of paternalism is discussed only to clarify the relevant ethical arguments, with little regard for possible conceptual content that is not tied to these arguments.²

There are in essence three ways to argue against paternalism. First, paternalism may be opposed on empirical grounds. It may be argued that interfering with a person’s liberty with the aim of promoting her good will always or often fail to promote her good. It may also be argued that a blanket prohibition of such interference will therefore be for the best in the long run. Second, paternalism may be opposed as a matter of principle. It may be argued that while interference with a person’s liberty may sometimes efficiently promote her good, such interference is nonetheless illegitimate. This is the position that most often goes by the name of anti-paternalism. Third, paternalism may be opposed because of the negative impact it has on important values such as liberty or autonomy. It may be argued that while promotion of (some aspects of the) good is sometimes a strong reason for interference, the loss in terms of these values generally provide stronger reasons against. If the third approach becomes very rigid, claiming that the value of non-interference is always greater than any (other) aspect of the good for a person, it becomes indistinguishable from the second approach.

The main aim of this thesis is to investigate anti-paternalism as the principled opposition to paternalism, to provide it with its most reasonable interpretation, and to reject it. On the whole, this is a negative contribution, it merely establishes that paternalism cannot coherently be dismissed as a matter of principle. From this nothing follows concerning which actions and policies are justified. It does follow that if we want to evaluate actions and policies involving paternalism, there is no shortcut past the laborious investigation of both conflicting values and empirical circumstances – that is, a combination of the first and third approach outlined above.

² Investigations of paternalism that are mainly focused on conceptual analysis include Gert and Culver (1976), Dworkin (1983), Archard (1990) and Clarke (2002).
A secondary aim of this thesis is to evaluate one particular paternalistic policy – the withholding of information about uncertain threats to public health. This is an important and interesting issue in its own right. The inclusion of an essay on this topic in the thesis is further motivated by its providing an example of how paternalistic policy can be discussed and rejected without appeal to anti-paternalism. Good arguments against interference are often hidden from view by their incorporation in anti-paternalist principles.

The idea that paternalism is illegitimate may stem from an idea that there are two levels of morality, where one is lexically superior to the other. This view may or may not be tied explicitly to political morality. On the superior level, people have some kind of rights. These rights, the argument goes, may not be infringed for any other reason than to protect other rights from infringement. On the subordinate level, the rest of morality comes in and provides us with such reasons for action as the (equal) promotion of good, including survival and health and long term autonomy, where these are not protected by rights. Unless there is a positive right to life, on this account, the mere fact that you will die unless I perform a certain action is irrelevant if the action amounts to an infringement of a right.

I do not explicitly discuss this view of morality in the thesis. I do, in the second essay, search for a trumping value that will make anti-paternalism reasonable, and find no such value. This argument, however, presupposes that all moral claims may in principle be confronted with each other and their relative importance estimated. This seems to me very reasonable. What could be the reason that some parts of morality are superior to others? Must not this be a moral reason? How then can the division hold sway against arguments that question the superior importance of the allegedly superior level on moral grounds? In the end, any exclusion of ideals or of kinds of reasons for action must be morally motivated.

In evaluating our actions, we must weigh the reasons for and against our different options; we must compare the importance of the values that are affected, and we must make clear how these values are affected. In order to behave adequately towards each other and in order to formulate good public policy, we must have the insight to see what is at stake and the creativity to find the best practical solutions. None of these challenges are facilitated by anti-paternalism.

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3 For both Rawls (1971) and Nozick (1974), for example, rights and liberties are superior to people's interests in the distribution of resources.
Preview of the essays

I. Paternalism and private spheres

The first essay is about the definition of paternalism. It consists of two parts, formed around two claims. The first claim is that paternalism should be understood as the invocation of certain reasons for certain actions. The predicate 'paternalistic' should, in its primary form, be reserved for compound reason-actions, rather than, as is usually presumed, for actions. The second claim is that the action component of paternalistic reason-actions should not be defined by what is self-regarding. Whether and to what degree you are affecting others does not determine whether acting towards you for your own good amounts to paternalism.

Regarding the first claim, it is a presupposition of the argument that the point of defining paternalism is to facilitate normative discussion. The most common and interesting normative attitudes towards paternalism are different forms of anti-paternalism. We should therefore avoid defining paternalism in a way that makes its rejection both preposterous and out of touch with traditional anti-paternalism. No definitions of paternalism in terms of actions, however, live up to this requirement. Reason-actions provide a ready alternative that will allow us to distinguish just what is paternalistic in any given situation. Paternalism is the invocation of reasons referring to a person’s good for interference with her. These two components of paternalism must of course be fleshed out in order to achieve a more substantial definition.

In support of the second claim, it is argued that the notion of what is self-regarding, while relevant for specifying the harm principle, is irrelevant for specifying paternalism and anti-paternalism. The harm principle – stating that harm to others is a legitimate reason for interference – does not allow interference with that sphere of a person’s life that affects only herself and consenting others (the private sphere). As soon as a person harms the interests of others, the harm principle gives us reason for interference. Anti-paternalism, however, has no relation to the private sphere. The idea that we may not interfere with a person for her own good is independent of whether a person is involved in other-regarding activities. That a person is harming non-consenting others should not make it any more legitimate to invoke her own good for interference with her.

In the introduction, it is declared that the thesis of the essay is that what is self-regarding and what is other-regarding is irrelevant to paternalism. The first claim is thereby subordinated to the second. This is appropriate in that definitions of paternalism in terms of actions may invoke the private sphere in an attempt to mitigate the implausible normative results that follow from such a definition. A definition of paternalism in terms of actions that
affect the private sphere is perhaps more reasonable than one in terms of actions with no mention of the private sphere, though both are quite unreasonable. The irrelevance of the private sphere is therefore shown most clearly when the proper definition of paternalism is accepted. The subordination of the first claim to the second is less appropriate, however, in that the arguments for the irrelevance of the private sphere are not dependant on defining paternalism in terms of reason-actions.

The essay also contains a discussion of normative principles and normative positions. It is argued that anti-paternalism as a normative principle should operate on the critical level where we explain why certain things (actions, reasons, persons) are good or bad, right or wrong. It is admitted that there may be normative positions in more restricted areas that may plausibly be called anti-paternalism. There may be all sorts of reasons for disallowing a person’s good to influence certain decisions. Anti-paternalism as a normative principle, however, is concerned with the general moral problem of invoking a person’s good as a reason for interfering with her.

II. Against anti-paternalism
The thesis of the second essay is that any version of anti-paternalism formulated in terms of reason-actions will be unreasonable and should be rejected. The essay starts out by making the case for the reason-action interpretations of paternalism and anti-paternalism argued for in more detail in the first essay. ‘Interference’ is introduced as a generic term for the action component and ‘personal good’ as a generic term for the reason component. Typically, of course, these terms hint at the content of the respective components.

The question is then asked what may be wrong with paternalism on this understanding of the concept. It is noted that anti-paternalism is widespread, if often in a moderate form where some aspects of the good for a person are not included in personal good but rather made an exception. This is somewhat surprising, since paternalism is the combination of one morally dubious thing and one morally positive thing. How come that the compound should (nearly) always be rejected? In order for anti-paternalism to be reasonable, it must be explained how personal good reasons, which are normally considered perfectly acceptable, can be invalid as reasons for interference.

The explanation must lie in one or both of the two components of paternalism, which are therefore each investigated in some detail. Concerning personal good, it is argued that in order for anti-paternalism to be of any interest, it must target reasons for action that are in general good and valid reasons. It is pointless to advance a doctrine that states that certain
reasons, that are invalid in general, are invalid as reasons for interference. Anti-paternalism operates on generally good reasons for action, and does not in itself determine what these reasons are. A theory of good reasons for action in general, or of what is good for a person, provides the background against which anti-paternalism makes it claims.

Since there is nothing dubious about personal good as such, the explanation of what makes it unfit to support interference must lie with interference or with the combination of the two components. Interference is therefore treated in the longest section of the essay, spilling over into a further section about liberal values. The idea is that interference must be defined in descriptive terms at some point if the doctrine shall have substantial content. It may however be that the descriptive content is dependent on the non-infringement of some value such as autonomy, liberty or sovereignty. In the end, both alternatives are rejected since none seem to provide the trumping value that is needed to make important personal good values (such as survival or long term autonomy) irrelevant of invalid as reasons.

Towards the end of the essay, vague and gradual anti-paternalism are considered as variations that might mitigate the arbitrariness of disregarding important personal goods when considering some, but not other, very similar, actions. While these attempts are not conclusively refuted, they are shown to be problematic. In the next to final section, empirically founded forms of anti-paternalism are distinguished from the doctrine under investigation. In the literature, empirical and normative arguments are often intertwined. It is argued in this section that while there may well be rules of thumb justified by empirical circumstances together with a consequentialist moral theory, these would be very restricted and could not motive the general anti-paternalism treated in the essay. Anti-paternalism must at least operate on an intermediate normative level, between final value and empirical considerations.

In sum, the essay attempts to refute anti-paternalism as a normative doctrine on the intermediate level of argument where it seems to belong. While liberal values provide reasons against interference that may well outweigh reasons for interference that refer to the good of the person, it is unreasonable to claim that the latter kind of reasons are invalid as a matter of principle. Letting go of anti-paternalism, we may consider liberal values in their own right and compare them to the value of personal goods such as health or happiness.

III. Epistemic paternalism in public health
The last essay considers an argument for a special kind of empirically founded anti-paternalism. It has been suggested that the value of information about uncertain threats to public health is outweighed by the negative consequences of such information in terms of elevated anxiety and
other psychosomatic reactions. Since withholding of information that concern our health may be considered an interference, withholding such information from the public in their best interest would amount to paternalism. The thesis of the essay is that in this case, the paternalistically motivated policy should be avoided.

In considering the argument for withholding of information, the results of the two first essays are taken into consideration. What is wrong with withholding of information is not, therefore, that the good of the public is invoked for interferences with their right to know about public health issues. On the contrary, it is accepted that this is an important reason for withholding. The only question is whether there are conflicting considerations that provide stronger reasons against withholding. In order to try the argument under its most favourable circumstances, consequentialism is assumed as a methodological presumption, thus foregoing any appeal to deontological values such as a right to direct ones own life from which a right to information might perhaps be derived.

Four major kinds of effects of withholding of information on public health are considered in the essay: effects on knowledge, psychological effects, effects on individual decision making, and effects on political decision making. It is assumed that all of these effects will make a difference to a consequentialist evaluation of policy. None of the areas are found to support withholding over making the information available. In conclusion, then, the argument from withholding of uncertain health information fails.

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