The National Collaborating Centres for Public Health

- National Collaborating Centre for Infectious Diseases
  - Centre de collaboration nationale des maladies infectieuses
  - Winnipeg, MB | www.nccid.ca

- National Collaborating Centre for Determinants of Health
  - Centre de collaboration nationale des déterminants de la santé
  - Antigonish, N.S. | www.nccdh.ca

- National Collaborating Centre for Environmental Health
  - Centre de collaboration nationale en santé environnementale
  - Vancouver, B.C. | www.ncceh.ca

- National Collaborating Centre for Methods and Tools
  - Centre de collaboration nationale des méthodes et outils
  - Hamilton, ON | www.nccmt.ca

- National Collaborating Centre for Healthy Public Policy
  - Centre de collaboration nationale sur les politiques publiques et la santé
  - Montréal-Québec, QC | www.ncchpp.ca
National Collaborating Centre for Healthy Public Policy (NCCHPP)

Our mandate

- Support public health actors in their efforts to promote healthy public policies

Our areas of expertise

- The effects of public policies on health
- Generating and using knowledge about policies
- Intersectoral actors and mechanisms
- Strategies to influence policy making
Survey

What do you think? Is it legitimate for the state to:

A. Forbid people from smoking in cars while children are present?

B. Forbid people from smoking in cars, even when they are alone?

Should we protect people against others?

Harm principle

Should we protect people against themselves?

Paternalism

Liberal context
Objectives

To briefly answer the following questions

• What is paternalism (or what are paternalisms)?

• Why are we uneasy about and attracted to paternalistic public policies in public health?

• What are the main strategies for dealing with paternalism in public health?

• What are the links between cognitive biases and paternalism?
What is paternalism?

“Paternalism is the interference of a state or an individual with another person, against their will, and defended or motivated by a claim that the person interfered with will be better off or protected from harm.”

(Dworkin, 2002)
Examples of public policies with a paternalistic flavour in public health

• Prohibition of the sale of cigarettes to minors
• Mandatory seat belt use in cars
• Mandatory use of motorcycle or bicycle helmets
• Prohibition of swimming at public beaches in the absence of a lifeguard
• Limits on fast food restaurants around schools
• Limits on the serving sizes of sugary drinks
• Taxes on sugary drinks, alcohol, cigarettes, etc.
• Fluoridation of drinking water
• ...
Suspicions about paternalism

“Paternalism is something we often accuse people of.”

• “Paternalist,” “nanny state”: to discredit an action, a policy

• The metaphor: acting like a good father (or a good parent) acts toward his children, limiting their freedom for their own good
  – Implicit: people are treated like children, unable to decide for themselves what’s best for them
  – Implicit: disrespect (their autonomy)
  – Implicit: someone else (the state) knows better than they themselves do about what is best for them
What might we find attractive about paternalistic public policies?

• **More effective?**
  – There are limits to information campaigns

• **More efficient?**
  – Limiting options can be less costly

• **More equitable?**
  – The freedom of choice in the free market creates health inequalities
Strategies for dealing with paternalism in public health

1. Paying attention to non-paternalistic reasons

2. Differentiating between types of paternalism and isolating the more problematic cases

3. Determining the conditions under which the most problematic cases could be ethically justified
1st strategy: paying attention to non-paternalistic reasons

There is rarely just one unique reason for intervening.

Example: Mandatory flu vaccination for health workers

- For their own good, but against their will (paternalism)
- For their own good, but with their consent (beneficence)
- To establish herd immunity (common good)
- To avoid harming others (harm principle)
- To protect the most vulnerable (justice, equity, etc.)
- To avoid imposing a burden on the community (justice, efficiency)
- Etc.

• Does the presence of a paternalistic reason on the list mean that the intervention is paternalistic?
2\textsuperscript{nd} strategy: differentiating between types of paternalism
Coercive/non-coercive paternalism: what is ‘interfering’?

“Paternalism is the interference of a state or an individual with another person, against their will, and defended or motivated by a claim that the person interfered with will be better off or protected from harm.”

(Dworkin, 2002)

- **Interfering**
  - More restrictive means → **Coercive** paternalism
  - Less restrictive means → **Non-coercive** paternalism
Assessing the degree of interference upon (negative) freedom


<table>
<thead>
<tr>
<th>Interference with negative freedom</th>
<th></th>
</tr>
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<tbody>
<tr>
<td>+</td>
<td>Eliminate choice</td>
</tr>
<tr>
<td>+</td>
<td>Ban cigarettes and trans fats</td>
</tr>
<tr>
<td>+</td>
<td>Restrict choice</td>
</tr>
<tr>
<td>+</td>
<td>Limit fast-food restaurants around schools; limit the size of sugary drinks</td>
</tr>
<tr>
<td>+</td>
<td>Guide through disincentives</td>
</tr>
<tr>
<td>+</td>
<td>Tax sugary drinks; limit the supply of parking spaces</td>
</tr>
<tr>
<td>+</td>
<td>Guide through incentives</td>
</tr>
<tr>
<td>+</td>
<td>Subsidize public transit</td>
</tr>
<tr>
<td>+</td>
<td>Change default option</td>
</tr>
<tr>
<td>+</td>
<td>Change the default option from French fries to salad</td>
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<tr>
<td>+</td>
<td>Enable choice</td>
</tr>
<tr>
<td>+</td>
<td>Build cycle paths; offer healthy food choices in public arenas</td>
</tr>
<tr>
<td>+</td>
<td>Inform</td>
</tr>
<tr>
<td>+</td>
<td>Mandatory nutrition labelling</td>
</tr>
<tr>
<td>+</td>
<td>Do nothing or monitor</td>
</tr>
<tr>
<td>+</td>
<td>Monitor trends in overweight and obesity</td>
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</tbody>
</table>
Assessing the degree of interference upon (negative) freedom


Interference with negative freedom

- Do nothing or monitor
- Inform
- Enable choice
- Change default option
- Guide through incentives
- Guide through disincentives
- Restrict choice
- Eliminate choice

Coercive

Non coercive

But, is this interfering?

Assessing the degree of interference upon (positive) freedom

Griffiths & West’s (2015) intervention ladder

Effects on positive freedom

<table>
<thead>
<tr>
<th>Effects</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>+5</td>
<td>Collective self-binding</td>
</tr>
<tr>
<td>+4</td>
<td>Enable choice</td>
</tr>
<tr>
<td>+3</td>
<td>Ensure choice is available</td>
</tr>
<tr>
<td>+2</td>
<td>Educate for autonomy</td>
</tr>
<tr>
<td>+1</td>
<td>Provide information</td>
</tr>
<tr>
<td>0</td>
<td>Change default option</td>
</tr>
<tr>
<td>0</td>
<td>Do nothing or monitor</td>
</tr>
<tr>
<td>-1</td>
<td>Guide through incentives</td>
</tr>
<tr>
<td>-2</td>
<td>Guide through disincentives</td>
</tr>
<tr>
<td>-3</td>
<td>Restrict choice</td>
</tr>
<tr>
<td>-4</td>
<td>Eliminate choice</td>
</tr>
</tbody>
</table>

What does it mean to consent to a public policy?
Coercive/non-coercive paternalism

• **Coercive paternalism:**
  – Coercive paternalism consists of using strong incentives, strong disincentives, restricting options or eliminating options for the good of those who are being interfered with.
    • E.g., banning cigarettes.

• **Non-coercive paternalism:**
  – Non-coercive paternalism consists of guiding people towards their own good(s) while preserving their freedom to choose otherwise.
    • E.g., changing the default option.

As is the case with ‘nudges,’ this can be based on cognitive biases.
Strong and weak paternalism: What is it to go against someone’s will?

“Paternalism is the interference of a state or an individual with another person, against their will, and defended or motivated by a claim that the person interfered with will be better off or protected from harm.”

(Dworkin, 2002)
Voluntary/involuntary acts

Voluntary acts:
- Fully thought-out choices of competent, autonomous, rational and well-informed adults
- Strong paternalism
- Emotional acts?
- Smoking?

Involuntary acts:
- Acts of heavily intoxicated people (alcohol, drugs, etc.)?
- Weak paternalism
- Very badly informed choices?
- Children’s acts?
- Reflexive reactions, sleepwalkers
Voluntary/involuntary acts

Voluntary acts

- Fully thought-out choices of competent, autonomous, rational and well-informed adults

Involuntary acts

Strong paternalism

- Decisions affected by cognitive biases (framing, default option, discounting, etc.)?

Weak paternalism

- Smoking?

- Acts of heavily intoxicated people (alcohol, drugs, etc.)?

- Very badly informed choices?

- Children’s acts?

- Reflexive reactions, sleepwalkers
Strong/weak paternalism

• **Strong paternalism:**
  – Strong paternalism consists of interfering with sufficiently voluntary choices for the good of those who are being interfered with.
    • E.g., mandatory bike helmet law for adults.

• **Weak paternalism:**
  – Weak paternalism consists of interfering with choices that are sufficiently involuntary, for the good of those who are being interfered with.
    • E.g., eliminating minors’ access to tanning beds.

Cognitive biases  Change our concept of autonomy? Of voluntary act? The frontier between strong and weak paternalism?
4 types of paternalism: isolating the more problematic cases

<table>
<thead>
<tr>
<th></th>
<th>Non-coercive intervention</th>
<th>Coercive intervention</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sufficiently involuntary action</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Weak non-coercive paternalism</td>
<td>(Glass of water as the default option in school cafeterias)</td>
<td>2. Weak coercive paternalism</td>
</tr>
<tr>
<td><strong>Sufficiently voluntary action</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Strong non-coercive paternalism</td>
<td>(Tax energy drinks)</td>
<td>4. Strong coercive paternalism</td>
</tr>
</tbody>
</table>
3rd strategy: determining the justificatory conditions

Several ethics frameworks for public health propose criteria that must be met in order to justify strong (coercive or not) paternalistic interventions.

E.g., Childress et al. (2002):

- Effectiveness ✓
- Proportionality ✓
- Necessity ✓
- Least infringement ✓
- Public justification ✓

E.g., Conly (2013):

...
Take home messages

• **A paternalistic policy** is a policy justified by the protection or promotion of the well being of the persons affected that comes at a cost to their autonomy/freedom.

• The more we give weight to individual freedom, the more difficult it becomes to ethically justify paternalistic policies.

• **3 strategies in public health:**
  – Paying attention to non-paternalistic reasons
  – Differentiating types of paternalism and isolating the more problematic cases
  – Determining the conditions under which the most problematic cases could be ethically justified

• The discovery of **cognitive biases** can:
  – Contribute to redefining autonomy, freedom, voluntary acts
  – Suggest new non-coercive means of intervening
Online material

PowerPoint

Summary document (2 pages)

http://www.ncchpp.ca/128/presentations.ccnpps?id_article=1511
References


Thanks for joining us

You’re interested in this topic?
Visit us at www.ncchpp.ca for more resources

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