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).1

• In other words: it is protecting people from themselves.
• Paternalism is generally seen as an ethically suspicious intrusion in the domain of personal autonomy or freedom.
• When there is consent, an intervention is not paternalistic.
• But, what is group consent? What does it mean to consent to a public policy?

What is interfering?

Here are two responses that rely on different conceptions of freedom:

1. Interfering is infringing upon (negative) freedom by limiting the options available or by influencing choices.
   • Liberal or libertarian conception of freedom: being free means not being constrained (whether internally or externally).
2. Interfering is infringing upon autonomy or (positive) freedom by limiting the capacity to make informed decisions.
   • Communitarian, republican or relational conception of freedom: being free means being able to make informed choices or actually having a range of options available.

INFRINGING UPON NEGATIVE FREEDOM

The Nuffield Council on Bioethics’ (2007)2 intervention ladder can be used to assess the degree of interference upon negative freedom (see Figure 1).

Figure 1 Assessing the degree of interference upon negative freedom using the Nuffield Council on Bioethics’ (2007) intervention ladder.

The underlying idea: most state interventions interfere with freedom. The higher we climb up the ladder, the more severe the interference, and the more we need good reasons to justify intervening (e.g., there is no alternative, the importance of the benefits or risks, equity, etc.).

INFRINGING UPON POSITIVE FREEDOM

The alternate ladder by Griffiths and West (2015)3 can be used to assess the effects of an intervention on positive freedom (see Figure 2).

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Figure 2 Assessing the effects on positive freedom with the help of Griffiths & West’s (2015) ladder.

The underlying idea: some interventions are necessary to protect or promote freedom and do not interfere with it. Only those interventions at the bottom of the ladder can be paternalistic. The more we climb down the ladder, the more we need good reasons justifying the intervention.

What can contribute to justifying a paternalistic intervention?

**NON-COERCIVE INTERVENTIONS**

Generally, less coercive interventions are easier to justify than more coercive ones – something that both ladders reflect. Some interventions that guide towards “good” choices without eliminating “bad” choices can even be considered non-coercive. This distinction makes it possible to talk about non-coercive paternalism and coercive paternalism.

Cognitive bias: research on cognitive bias opens up possibilities for new interventions that guide without being coercive.

**INvoluntary Actions**

It is generally accepted that it is possible to justify paternalistic interventions when they target persons who are not competent (i.e., they have not reached a sufficient level of autonomy as for example with young children or people with some severe cognitive deficiencies) or competent persons who are in situations or contexts that render their actions sufficiently involuntary (e.g., persons who are heavily intoxicated or who are missing crucial information). This distinction makes it possible to talk about weak paternalism (when sufficiently involuntary acts are targeted) and strong paternalism (when sufficiently voluntary acts are targeted).

Cognitive bias: research on cognitive bias can widen the category of sufficiently involuntary acts.

**Four types of paternalism**

**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).

**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).

**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).

**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).

**Possible combinations**

<table>
<thead>
<tr>
<th>Sufficiently involuntary action</th>
<th>Non-coercive intervention</th>
<th>Coercive intervention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Weak non-coercive paternalism</td>
<td>2. Weak coercive paternalism</td>
<td></td>
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Ethically speaking, combinations 1 and 2 are generally seen as less problematic as compared to combination 3 and especially to combination 4. The more we give weight to individual freedom, the harder it is to justify (if it is possible at all) combinations 3 and 4.