



ARTICLES

# For the Greater Individual and Social Good: Justifying Age-Differentiated Paternalism

Viki Møller Lyngby Pedersen 

Centre for the Experimental-Philosophical Study of Discrimination, Department of Political Science,  
Aarhus University, Aarhus, Denmark  
Email: [vikip@ps.au.dk](mailto:vikip@ps.au.dk)

## Abstract

What justifies differences in the acceptance of paternalism towards competent minors and older people? I propose two arguments. The first argument draws on the widely accepted view that paternalism is easier to justify the more good it promotes for the paternalizee. It argues that paternalism targeting young people generally promotes more good for the people interfered with than similar paternalism targeting older people. While promoting people's interests or well-being is essential to the justification of paternalism, the first argument has certain unfair implications in that it disfavours paternalism towards the worse off. The second argument caters to such fairness concerns. It argues that priority or inequality aversion supports age-differentiated paternalism because young people, who act imprudently and thereby risk their interests or well-being, are worse off than older people who act in similar ways. I suggest that both arguments are pertinent in evaluating specific paternalistic acts and policies.

**Keywords:** paternalism; age; benefits; consequences; fairness

## 1. Introduction

In the literature on the justification of paternalism, it is common to focus on differences between children and adults. Specifically, philosophers tend to think that paternalism towards children is less controversial than paternalism towards adults. The arguments for this view traditionally appeal to the fact that children usually lack capacities for autonomous decision-making, including a stable conception of the good, which makes paternalism directed at children more warranted than paternalism towards competent adults (see e.g. Brighouse 2003; Buchanan and Brock 1989: 229; Feinberg 1986: 183). While such arguments using age as a proxy for competence seem persuasive in cases of young children, problems arise the older and more competent or autonomous the children get (see e.g. Anderson and Claassen 2012; Grill 2020). If we do not accept restrictions preventing competent adults' risky activities, why should we prevent the risky activities when undertaken by equally competent adolescents? (Anderson and Claassen 2012; Godwin 2020: 313; Grill 2018b). Unless it is possible to come up with alternative justifications for treating young and old people differently, it seems

that paternalistic interventions targeting competent minors may reasonably be considered instances of wrongful age discrimination (Anderson and Claassen 2012: 501).

While many theorists have focused on paternalism in relation to the divide between children and adults, few have focused on the justificatory relevance of non-competence-based age-related factors.<sup>1</sup> This paper investigates two reasons for thinking that paternalism is easier to justify when directed at young people than when directed at older people, which do not focus on differences in the autonomy, development or competences of the people interfered with. This means that, even if one focuses on competent adults, the arguments imply that paternalism towards young adults is easier to justify than paternalism towards older adults. The two arguments are *The Prospective Individual Good Argument* and *The Retrospective Social Good Argument*.<sup>2</sup> From now on, though, I will refer to them as *The Prospective Argument* and *The Retrospective Argument*. Briefly described, the key differences between the two arguments are as follows (I will present the arguments in more detail below).

The Prospective Argument is forward-looking and appeals to the magnitude of good (including severity of harm) that a paternalistic act or policy will potentially prevent for the paternalizee. It says that paternalism directed at young people generally promotes more good for the people interfered with than paternalism directed at older people. Compared to older people, young people generally have longer remaining life expectancies, which is an indicator of the interests and well-being that will potentially be protected by paternalism. Because of this, a consideration to promote as much good as possible for the individuals interfered with supports age-differentiated paternalism. Another way to put it is that paternalism targeting young people promotes more *Individual Good* than paternalism targeting older people.<sup>3</sup>

The Retrospective Argument is backward-looking. It focuses on how much advantage the people interfered with have already had and assigns greater moral weight to protecting the well-being or interests of worse-off people compared to better-off people. According to this argument, paternalism towards young people is easier to justify than paternalism towards older people because there is a relevant sense in which young people, who act imprudently and thereby risk their interests or well-being, are worse off than older people who act in similar ways. Specifically, young people have lived fewer years than older people, which makes it likely that their lifetime well-being is lower than the lifetime well-being of older people. Accordingly, priority or inequality aversion supports age-differentiated paternalism. In other words, paternalism targeting young people promotes more *Social Good* than paternalism targeting older people.<sup>4</sup>

As I will illustrate, the two arguments supplement each other in interesting ways. One implication of The Prospective Argument is that it disfavours paternalism towards the worse off in terms of socioeconomic status (and would also disfavour paternalism directed at other groups with relatively shorter life expectancies). If we accept both

<sup>1</sup>In Pedersen (2023), I explored the relation between age and the justification of paternalism. One of the arguments I suggested in that chapter is similar to The Prospective Individual Good Argument that I present below. In this article, I develop the argument, examine its implications and propose an additional argument for age-differentiated paternalism, that is, The Retrospective Social Good Argument.

<sup>2</sup>These labels stem from helpful suggestions from an anonymous reviewer.

<sup>3</sup>I elaborate on what I mean by 'Individual Good' in section II.

<sup>4</sup>I elaborate on what I mean by 'Social Good' in section IV.

arguments, this enables us to defend age-differentiated paternalism without making intuitively unfair recommendations in such cases.<sup>5</sup>

It is a widely accepted view that the justification of paternalism depends on the extent to which it benefits people. Furthermore, it has sometimes been suggested that paternalism can be an effective means of alleviating inequalities, for example, in health. At the same time, the literature on priority-setting has suggested that age is relevant to how, for example, medical treatments should be allocated if we are both concerned about increasing benefits and avoiding unfairness. In view of this, it is surprising that the age of the people interfered with (besides from the child vs. adult divide) has not received more attention in the literature on paternalism.

The rest of the paper is structured as follows. To begin with, I briefly clarify how I understand paternalism. Then, I contrast competence-based justifications of age-differentiated paternalism with the non-competence-based justifications that I suggest in this article. In section II, I present The Prospective Argument for age-differentiated paternalism. Central to this argument is that young people typically benefit more from paternalism than older people, because young people generally have longer remaining life expectancies. In section III, I show that The Prospective Argument for age-differentiated paternalism has certain unfair implications; it disfavors paternalism towards the worse off in terms of socioeconomic status. In section IV, I present and defend The Retrospective Argument, which also supports age-differentiated paternalism. The focus of this argument is that young people who jeopardize their interests or well-being are typically worse off than older people who do the same, because young people have had fewer years to live. Moreover, I show that The Retrospective Argument avoids the fairness objection to The Prospective Argument raised in section III. Section V concludes.

Two clarificatory remarks before I proceed. First, I understand paternalism as acts, omissions or policies that interfere with a person and are introduced with the aim of promoting the person's interests or well-being. Moreover, the person does not welcome the interference in question. Put very briefly, paternalism is 'unwelcome benevolent interference' (Grill 2018a). However, how to define paternalism is a controversial matter, and my arguments in this article do not rest on this specific understanding of paternalism.<sup>6</sup>

Second, The Prospective Argument and The Retrospective Argument do not focus on the competences of the paternalizees. Instead, the arguments focus on age as a proxy of (remaining) life expectancies (which are indicators of the Individual Good and Social Good protected by paternalism). While I focus on these proxies, I do not deny that other factors such as, for example, differences in decision-making capacities are relevant to the evaluation of age-differentiated paternalism.<sup>7</sup> In fact, differences in decision-making capacities may also be an indicator of the well-being or interests that paternalism protects for the individual. For example, as Godwin puts it, 'if paternalism is sometimes justified for consequentialist reasons, a subject's possession of capacities that could relevantly alter those consequences may reduce or eliminate the force

<sup>5</sup>These formulations draw on some helpful suggestions from an anonymous reviewer.

<sup>6</sup>For other understandings, see Archard (1990); de Marneffe (2006); Dworkin (2017); Grill (2012); Midtgaard (2016); Shiffrin (2000).

<sup>7</sup>In Pedersen (2023: 44–47), I discuss how age affects the relevance of competence-focused objections to paternalism.

of those reasons' (Godwin 2020: 310).<sup>8</sup> While I grant that people's autonomy and decision-making capacities are factors of great relevance to the justification of paternalism (*inter alia* for reasons referring to the outcomes of paternalistic acts and policies), this article's contribution consists in exploring arguments for age-differentiated paternalism that do not invoke such competence-related factors.<sup>9</sup>

## II. The Prospective Argument

In this section, I present The Prospective Argument for age-differentiated paternalism in two steps. First, I illustrate that paternalism is considered easier to justify the more good it promotes (including the more harm it prevents) for the individual interfered with. Second, I defend the view that the benefits of paternalism to the individual generally diminish with the individual's age.

It is a widespread view that the justification of paternalism is sensitive to considerations pertaining to the significance of the interests at stake. For example, Godwin speaks of 'the paternalistic calculus', which says that

for paternalism to be justifiable, it must satisfy at a minimum ... [that] the benefits to the subject of a paternalistic act must outweigh any detriments to their interests. If an action harms a subject more than it benefits them, then the action would not be to their net-benefit and would therefore not serve properly so-called paternalist purposes. (Godwin 2020: 311; see also de Marneffe 2009: 76; Glod 2021: 8–9; Hanna 2018: 4–5)

Using a similar calculus, other authors argue that paternalistic measures that involve limited infringements with people's autonomy seem to be warranted when these are essential to preventing irrevocable situations of insufficiency (Pedersen and Midtgaard 2018; see also Casal 2007: 322).<sup>10</sup>

Although paternalism is often considered to be expressive of disrespect, some theorists have argued that such expressive or respect-based considerations sometimes speak *against* anti-paternalist inaction and in favour of interfering with the voluntary choices of competent agents (Hojlund 2021; Pedersen 2021). The problem with remaining passive when other people jeopardize their own interests is that, at least under certain conditions, it manifests 'neglect, indifference, and unwillingness to give appropriate weight to the strong interests of others' (Hojlund 2021: 519). In this context, one of the relevant conditions is the significance of the good at stake, or as Hojlund (2021: 528) puts it, 'it is

<sup>8</sup>For a critical scrutiny of such competence-based reasons for considering paternalism towards children easier to justify than paternalism towards adults, see Godwin (2020).

<sup>9</sup>To be clear, a person's level of autonomy or decision-making competences may affect the expected benefits of paternalizing the person, but these factors are also relevant to justifications that do not focus on benefits. For example, Schapiro writes that 'children are incapable of making their own choices, whether good or bad' (Schapiro 2003: 575, 581; quoted in Godwin 2020: 318). This seems to justify paternalism towards children because such paternalism will not interfere with autonomous actions. As Schapiro puts it, 'by interfering with a child's action, we do not thereby violate *her*' (Schapiro 2003: 586; quoted in Godwin 2020: 318).

<sup>10</sup>These views might be considered too demanding. For example, one might think that severity can be sufficient to justify paternalism. Exactly which conditions must be fulfilled before paternalism is justified calls for further investigation but is outside the scope of this paper. What is important to the argument under consideration is that the justification of paternalism depends (in part) on the magnitude of the expected benefits (including the extent of harm it can prevent).

arguably more expressively objectionable if the state through inaction fails to secure a very important good than if it fails to secure a rather trivial good’.

It might be argued that the above arguments are only relevant to people who accept hard paternalism. According to hard paternalism, it is a good and relevant (not necessarily decisive) reason in favour of interfering with a competent person’s voluntary choice, without the person’s consent, that such interference promotes the person’s own interests or well-being (see e.g. Feinberg 1986: 4; Hanna 2018: 4). By contrast, soft paternalists reject that this reason is ‘good or relevant’. In their view, interference with a person’s conduct with the motive of promoting the person’s own interests or well-being can be justified ‘*when but only when* that conduct is substantially nonvoluntary, or when temporary intervention is necessary to establish whether it is voluntary or not’ (Feinberg 1986: 12). Accordingly, irrespective of the severity of the interests or well-being at stake, soft paternalists reject that paternalistic interference with a competent person’s voluntary choices can be justified.

However, even soft paternalists rely on a certain ‘paternalistic calculus’. Specifically, they understand voluntariness as a matter of degree. On their view, paternalistic interference is never warranted above the voluntariness threshold, whereas they do not reject such interferences below the relevant threshold. Where to set the threshold depends on considerations pertaining to the good at stake. As Shafer-Landau (2005: 171) puts it, ‘[t]he greater the threatened self-harm, the higher the probability of such harm eventuating, the more irrevocable the results of a choice, the greater the voluntariness required for legal immunity’. Accordingly, interventions that prevent high levels of harm will be easier to justify on soft paternalistic grounds than interventions that prevent lower levels of harm. The upshot is that both hard and soft paternalists consider interventions easier to justify the more is at stake (see also Feinberg 1986: 117–24; Grill 2020: 16–17; Le Grand and New 2015). It follows, for example, that seatbelt mandates in cars are easier to justify than seatbelt mandates in trains if the former prevent more harm to people using seatbelts than the latter. To be clear, this applies regardless of the age of those being treated paternalistically.

The next step in the argument for age-differentiated paternalism is to defend the view that the benefits to a person of preventing the person’s imprudent activity generally decrease with the person’s age.<sup>11</sup> This view finds support if we consider certain arguments in the literature on priority setting according to which it is permissible to give higher priority to treatments that primarily benefit young people. There are different justifications for this view. Due to the above-described focus on the net benefits to the subject of a paternalistic act, to begin with, I will focus on justifications that cite age-related differences in the magnitude of expected benefits. In this context, Bognar (2015: 253) asks us to consider the following case:

There are two patients who need a life-saving drug, but you only have one drug and you can’t get more. The only difference between the two patients is their age: neither of them is more deserving of the drug, neither of them is responsible for their condition, neither of them has family responsibilities, neither of them would have worse quality of life if they are saved, and so on. So you have to choose between giving the life-saving drug to:

- (A) a 20-year old patient who will live for many years if she gets the drug; or
- (B) a 70-year old patient who will live for only a few more years if she gets the drug.

<sup>11</sup>I have previously presented arguments to this effect in Pedersen (2023).

If we think that we should save A rather than B, one possible justification of this is that saving A promotes more good for A than saving B does for B because of the differences in additional life expectancies between A and B. In this context, it might be argued that life expectancy as such is not a good in itself. According to this view, ‘lifetime is like a “container,” whose value depends on what it will allow for—that is, on what lies “within the container” (life events, activities, projects, etc.)’ (Fleurbaey and Ponthiere 2022: 357). If this is true, additional life expectancy is only an indicator of the good involved in increasing the duration of the life of the individual (see also Bognar 2016: 166). But the conclusion in favour of giving the drug to A still stands, because a longer lifespan generally leaves more room for valuable ‘life events, activities, projects, etc.’ than a shorter lifespan. In other words, the magnitude of the good in question depends on both the quality and quantity of the extra life-years that the person gains (in this case, if she gets the drug). I refer to this as the *Individual Good* involved in benefitting the person, for example, through increasing the duration of the person’s life. The Individual Good is the good that an intervention (e.g. giving the medicine) does the person.

Because B will only live for a few more years if she gets the drug, whereas A will live for many years, the Individual Good of treating B is presumably less than the Individual Good of treating A. Accordingly, a focus on promoting Individual Good as much as possible supports giving the drug to the 20-year old person.<sup>12</sup> Similarly, because of differences in additional life expectancies, a straightforward justification of age-differentiated paternalism is that preventing an imprudent activity, e.g. smoking or driving a motorcycle without a helmet, performed by a young person generally promotes more Individual Good than preventing the same imprudent activity by an older person.

It might be objected that, in contrast to the above cases, most paternalistic policies do not necessarily save lives; they may merely prevent diseases, financial losses or other sorts of non-fatal harms. While I grant that the argument seems strongest in situations where the possible consequences of an imprudent action are significant and either irreversible or long-lasting, it is not only applicable in ‘life or death’ cases. Imagine, for example, a person who hits their head and must live with a chronic or long-lasting headache. Say that this accident decreases the person’s quality of life to a certain extent each life year for the rest of the person’s life. The Individual Good involved in preventing this calamity will be greater the more years the person has left to live.

To summarize the argument of this section: it is a widespread view in the literature on paternalism that paternalism is easier to justify the more good it promotes for the individuals interfered with. Since paternalism targeting young people generally protects more life years than paternalism directed at older people (because the additional life expectancies of young people are generally longer than the additional life expectancies of older people), age seems to be a proxy for the Individual Good promoted by paternalism. It follows that paternalism towards young people is generally easier to justify than paternalism towards older people.<sup>13</sup>

However, the above argument for prioritizing young people in scarcity decisions, which focuses on differences in how treatment benefits individuals, has implications

<sup>12</sup>Below, in section IV, I consider a case where the additional life expectancies of the young and the older persons are the same. Here, The Prospective Argument does not support age differentiation.

<sup>13</sup>Despite its focus on consequences, someone who gives The Prospective Argument need not endorse consequentialism. Even a non-consequentialist person can hold the view that paternalism is only justified if the good promoted outweighs the costs of the intervention (cf. ‘the paternalistic calculus’). As Rawls puts it, ‘[a]ll ethical doctrines worth our attention take consequences into account in judging rightness. One which did not would simply be irrational, crazy’ (Rawls 1971: 26).

that some are unwilling to accept. The argument implies that young people should be prioritized, but it also implies that other groups who might benefit more from treatment (e.g. healthy or privileged people) should be prioritized. This seems unfair. In the next section, I discuss whether The Prospective Argument for age-differentiated paternalism is vulnerable to a similar objection.

### III. An objection to The Prospective Argument for age-differentiated paternalism

Now, I will present and discuss an objection to the argument for prioritizing healthcare to young people in scarcity decisions that I described in the previous section. This objection may also threaten The Prospective Argument for age-differentiated paternalism. Both arguments use age as a proxy for additional life expectancy (which is an indicator of the good promoted for the individual), but additional life expectancy not only varies with age – it also seems to follow other traits, such as socio-economic status. This challenges the argument for prioritizing healthcare to young people that focuses on where the greatest benefits can be achieved. For example, Nielsen (2021) asks us to consider a prioritization case like the one suggested by Bognar above, but now we must choose between:

- C A socially privileged 20-year-old with 60 more life years, or
- D A socially disadvantaged 20-year-old with 40 more life years. (Nielsen 2021: 232)

In this case, saving C (henceforth referred to as ‘Privileged’) rather than D (henceforth referred to as ‘Disadvantaged’) involves the greatest Individual Good. According to Nielsen (2021: 232), the implication that treatment to Privileged should be prioritized because this would generate more benefits than prioritizing Disadvantaged ‘disturbs our intuition of fairness as it pro tanto implies discriminating based on class’ (Nielsen 2021: 232). That is, prioritizing Privileged because Privileged benefits more from the treatment does not seem to be a fair response to the case.

Is The Prospective Argument for age-differentiated paternalism vulnerable to a similar objection? It follows from the argument that paternalizing Privileged is more justified than paternalizing Disadvantaged (all else being equal, e.g. assuming that the burdens associated with the intervention are the same for Privileged and Disadvantaged). Is this implication of The Prospective Argument problematic from a fairness perspective? One way to assess this is to consider whether there are any relevant differences between the two arguments (the health-care prioritization argument and The Prospective Argument) that render the differential treatment of Privileged and Disadvantaged unfair in the health-care context, but not in the paternalism context.

One potentially relevant difference is scarcity. The argument for prioritizing healthcare to young people suggests how we should distribute healthcare under scarce resources. In contrast, The Prospective Argument in favour of age-differentiated paternalism does not seem to focus on how scarce resources should be distributed between individuals. At least in standard situations, the paternalistic agent does not have to choose between interfering paternalistically with, e.g. the young and the elderly, for scarcity reasons. In fact, it is often argued that policies that prevent people from making imprudent decisions will save others in society from the costs associated with treatment, emergency aid, etc. (see e.g. Bou-Habib 2006; Le Grand and New 2015: 60; Stemplowska 2009: 252–53). However, sometimes, there may be a limit to how many people a paternalist can interfere with. We can imagine a situation where a paternalist must choose between protecting Privileged or Disadvantaged (e.g. for practical reasons).

As far as scarcity is concerned, this case is relevantly similar to the case where we can only provide treatment for one of the two patients. And in such a situation, The Prospective Argument tells the paternalist to protect Privileged.

A seemingly more relevant difference between the two arguments is that The Prospective Argument for age-differentiated paternalism is about an intrapersonal value conflict that is not pertinent in the health-care prioritization argument. Specifically, The Prospective Argument focuses on whether paternalism's beneficial effects for the interests or well-being of the individual justify interfering with the individual's autonomy. According to the argument, a paternalistic intervention towards a young person is likely to benefit this young person comparatively more than a similar intervention towards an older person would benefit this older person. For this reason, the aim of promoting the person's own interests or well-being is, all else being equal, more likely to justify unwelcome interference with the person's autonomy the younger the person is (although some paternalistic interventions towards the older person may also be justified – and some interventions for the young would be unjustified).

Because of the intrapersonal value conflict involved in paternalism, one might challenge the view that paternalizing Privileged, but not Disadvantaged, is problematic from a fairness perspective. There is a potentially relevant difference between, on the one hand, prioritizing treatment to Privileged and, on the other hand, paternalizing Privileged but not Disadvantaged. In the former case, both Privileged and Disadvantaged want the treatment, and they both seem to have a claim to receiving the treatment. In the latter case, both Privileged and Disadvantaged prefer their situation without the benevolent interference (this follows from the definition of paternalism). Accordingly, it is not clear that they have a claim to being treated paternalistically. And whether Privileged and Disadvantaged have a claim to being paternalized seems relevant to the question of whether it would be unfair to paternalize Privileged but not Disadvantaged. Consider, in this context, Broome's (1988: 61) description of fairness:

Claims are the object of fairness. Fairness is concerned with mediating between the claims of different people. It is not concerned with reasons that are not claims. If there is a reason why someone should get a good, but she does not get it, she is not treated unfairly unless the reason was a claim. She is not treated unfairly if no duty was owed her in the first place that she should have it.

On this view, given that both Privileged and Disadvantaged have an equal claim to the medical treatment (or given that Privileged has a weaker claim because Privileged already has more than their fair share), it is unfair that only Privileged receives the treatment, even if this is what generates most benefits. Yet, *unless* Disadvantaged has a claim to paternalistic protection, it is *not* unfair to Disadvantaged if only Privileged is paternalized.

Since hard paternalism involves acts or policies that interfere with competent people's voluntary choices, without their consent, it may seem strange to say that people have such a claim to paternalistic protection. At least, it is often invoked as an objection to hard paternalism that those who introduce such paternalistic policies, or in other ways act paternalistically, fail to discharge their duty to respect the autonomy of the people interfered with (see e.g. Enoch 2016; Feinberg 1986; Groll 2012).<sup>14</sup> Based on the corresponding claim to have their autonomy respected, it is rather those who are

<sup>14</sup>Since people who act involuntarily do not act as autonomous agents, soft paternalism is typically considered to avoid this autonomy challenge (see e.g. Feinberg 1986: 12–14; Le Grand and New 2015: 111).

subjected to paternalism who can object that they have been treated unfairly. It follows that, if someone is treated unfairly in the scenario where Privileged but not Disadvantaged is treated paternalistically, it seems to be Privileged.

But this is too quick. As Broome puts it, '[s]ometimes there can be a conflict of duties owed to a single person: the duty to be truthful may conflict with the duty to spare her distress, for instance. These duties we weigh against each other in deciding what to do' (Broome 1988: 62). Similarly, the duty to respect a person's autonomy sometimes conflicts with a duty (that at least some authors think we have) not to stand idly by when another person is about to act in a way that could lead to serious harm to the person concerned (Hojlund 2021; Pedersen 2021; Pedersen and Midtgaard 2018). Given that such a duty (and a corresponding claim) exists, this duty must be weighed against the duty to respect the autonomy of the person interfered with (cf. Broome 1988: 62).

Now, consider a situation where Disadvantaged and Privileged both act imprudently and it applies to both that their claim to paternalistic protection outweighs their autonomy claim against being paternalized. Suppose also that a paternalist must choose between interfering with Privileged or Disadvantaged. The paternalist decides to paternalize Privileged because this will benefit Privileged more than paternalism towards Disadvantaged would benefit Disadvantaged. Since the paternalist focuses on protecting as much Individual Good as possible, Disadvantaged has no chance of being selected. Accordingly, the paternalist fails to discharge the duty not to stand idly by owed to Disadvantaged. Because of this, the disadvantaged person, who also has a claim to paternalistic protection, is treated unfairly in this case.

To summarize and conclude the discussion in this section: The Prospective Argument implies that paternalism towards Privileged is more justified than paternalism towards Disadvantaged. That is, the argument suggests differential paternalistic treatment of Privileged and Disadvantaged. The question is whether this implication is unfair towards Disadvantaged. The conflict between respecting individual autonomy and catering to the individual's well-being or interests is pertinent in the paternalism context (and less so in the health-care prioritization context). This complicates the fairness considerations pertaining to The Prospective Argument for age-differentiated paternalism. Whether it is unfair to paternalize Privileged, but not Disadvantaged, plausibly depends on the relative strength of the two conflicting claims that each of them has. In situations where both Disadvantaged and Privileged have a claim to paternalistic protection, which outweighs their autonomy claim against paternalistic interference, it is unfair towards Disadvantaged if only Privileged is treated paternalistically because this is what generates most benefits.

This shows that fairness and The Prospective Argument sometimes pull in opposite directions. It also shows that paternalism is not only about balancing conflicting intrapersonal values; it is also about mediating the claims of different people (cf. Broome 1988: 61).<sup>15</sup> In the next section, I propose an additional argument for age-differentiated paternalism that accommodates the latter interpersonal considerations. This argument does not appeal to the amount of Individual Good to the person interfered with.

---

<sup>15</sup>For arguments in favour of hard paternalism that appeal to how paternalism may promote fairness, see Arneson (1989; 2005) and Voigt (2010: 97). For example, Arneson (2005: 276) writes that anti-paternalism 'looks to be an ideology of the good choosers, a doctrine that would operate to the advantage of the already better-off at the expense of the worse-off, the needy and vulnerable.'

Instead, it focuses on the moral value associated with promoting this person's interests or well-being from a fairness perspective.

#### IV. The Retrospective Argument for age-differentiated paternalism

Consider a variant of the priority case where two patients need a life-saving drug, but you only have one dose of the drug to give. Now, you must choose between:

- (A) a 20-year old patient who will live for ten more years if she gets the drug; or
- (B) a 70-year old patient who will also live for ten more years if she gets the drug.<sup>16</sup>

In this case, there are no differences in additional life expectancies, which means that a consideration to promote as much Individual Good as possible will *not* give us reason to prioritize A over B. This seems wrong. At least in the literature on priority setting and age, many will consider it unfair if the 70-year-old patient is prioritized (see e.g. Bognar 2016: 166; Kappel and Sandøe 1992: 313–14).

There are different possible explanations of this view.<sup>17</sup> For example, treating the 70-year-old in this case might be considered unfair because of the inequality between the two patients. The young patient has had less quantity of life and thus less time to pursue and realize their life goals and plans. For example (depending on their specific age, of course), young people have had less time to get an education and establish themselves in the labour market, and they have had less time to start a family, to have children, to have grandchildren, etc. For such reasons, the young patient is disadvantaged compared to the older patient who has lived for more years. Other things being equal, it does not seem implausible to suspect that most of us would prefer (i) living until age 70 and then dying due to lack of treatment over (ii) getting the drug at age 20 and then living until age 30 (Kappel and Sandøe 1992: 314). Unless the quality of the older patient's 70 years of life has been very poor compared to the young patient's 20 years of life, increasing the young patient's life with 10 years involves decreasing the inequality between the two patients.

To address such inequalities, it is sometimes suggested in the literature on health-care priority setting that treatments are allocated in a way that give some priority to the worst-off individuals (see e.g. Bognar 2015: 259–60; Bognar 2016: 167). For example, it is possible to assign weights to benefits. The weight that is assigned to benefitting a person depends on how much worse off the person is and the degree of inequality aversion that is built into the chosen model (cf. Fleurbaey and Ponthiere 2022: 375).<sup>18</sup> We can describe this as the *Social Good* promoted by benefitting the person, for example, through increasing the duration of the person's life. In the above case, since the younger patient is worse off, increasing the younger patient's life with 10 years involves a greater Social Good than increasing the older patient's life with 10 years.<sup>19</sup>

<sup>16</sup>This case is from Bognar (2016: 166).

<sup>17</sup>For an overview and discussion of different conceptions of fairness that may explain the judgment that fairness requires prioritizing the 20-year-old in the example under consideration, see Bognar (2016).

<sup>18</sup>Alternatively, if one prefers prioritarianism, the weight depends on the person's absolute level of well-being (not their comparative level of well-being) and the degree of priority that is assumed.

<sup>19</sup>These arguments presuppose a traditional view on personal identity, according to which the person is one and the same throughout their whole life even if the person changes significantly. For example, on this

Again, something similar can be said about paternalistic cases of harm prevention. A paternalistic policy that prevents a person with a life expectancy of 30 years from dying at age 20 seems to involve a greater Social Good than an equivalent policy that prevents a person with a life expectancy of 80 from dying at age 70, because the 20-year-old has had less quantity of life (and therefore, other things being equal, are worse off in terms of lifetime well-being than the 70-year-old). Given that the benefits of interfering with the young person are similar to the benefits associated with interfering with the older person, there are equally strong Individual Good promoting reasons for interfering with the two persons. However, if equalizing lifetime well-being via paternalism is a meaningful goal, this is an alternative Social Good promoting reason for age differentiation.

Moreover, the inclusion of Social Good considerations equips us to address the challenge to The Prospective Argument raised in section III: it does *not* follow from The Retrospective Argument for age-differentiated paternalism that paternalizing Privileged is easier to justify than paternalizing Disadvantaged. For example, The Retrospective Argument seems to support the well-known policy of raising the prices of cigarettes, since this policy has a stronger effect among members of low-income groups who are more responsive to prices compared to members of high-income groups (Sassi et al. 2018). If raising the prices of cigarettes primarily benefits people with low incomes, this is to be considered an advantage of the policy.<sup>20</sup> For example, as Chapman (2012: 3) puts it, '[t]hose groups advocating keeping tobacco tax low perversely seek to "help" poor smokers by keeping tobacco affordable, which encourages use'.

Since the Retrospective Argument focuses on promoting Social Good rather than Individual Good, one might argue that The Retrospective Argument provides a defence of age-differentiated paternalism that eliminates the paternalism involved in the policies and actions under consideration.<sup>21</sup> While paternalism aims to promote the interests or well-being of the people interfered with, The Retrospective Argument is concerned with priority or inequality aversion. Specifically, The Retrospective Argument supports policies that protect the interests or well-being of those who have less *because* this would produce a greater Social Good. One may suggest that policies introduced with this (e.g. equality-enhancing) motive are *not* paternalistic.

But, as Bengtson and I have recently argued, whether this is true depends on *why* we must promote equality to begin with. One view is that inequality matters because it involves that people's interests are not equally protected. If one then introduces a policy to ensure a better protection of the interests of those who are worse off relative to others, this rationale seems to be of a benevolent kind (see Bengtson and Pedersen 2023: 5–6).<sup>22</sup>

---

view, a person does not become numerically different when ageing from 20 to 70 years even if the 20-year-old person is not 'qualitatively identical' to her 70-year-old self (see Parfit 1984: 201, 204). An alternative analysis based on Parfit's theory of personal identity would involve an assessment of the psychological connections between the person and the person's future self. For discussions of the justification of paternalism based on Parfit's theory, see e.g. Carter (2018) and Andersen (2021).

<sup>20</sup>However, as Voigt (2010) argues, one should be careful here, because the burdens associated with the policy also seems to disproportionately affect disadvantaged groups. The argument for the policy depends on whether it is likely to succeed in advancing people's interests *on balance*.

<sup>21</sup>I am grateful to an anonymous reviewer for raising this question.

<sup>22</sup>However, an equality-enhancing motive need not be benevolent. For example, one may think that inequality matters because equality is valuable *in itself*. Policies introduced with *this* equality-enhancing motive would not be paternalistic since they do not involve appeals to anyone's interests or well-being (see Bengtson and Pedersen 2023: 6). Accordingly, when we consider The Retrospective Argument, we

Given that the policy also involves unwelcome interference with the intended beneficiaries, the policy seems to be paternalistic towards these people. Imagine, for example, a state that raises the prices on cigarettes because the state knows that this policy has particularly beneficial effects for ‘poor’ smokers and thus is likely to promote equality. Imagine also that the intended beneficiaries (smokers from low-income groups) prefer their situation without the policy in question. This equality-enhancing policy is a case of unwelcome benevolent interference with smokers from low-income groups, i.e. the policy is plausibly described as paternalistic towards these smokers (Bengtson and Pedersen 2023: 5–6).<sup>23</sup>

Now, given that it is both true (i) that paternalism is easier to justify the greater good it promotes for the individuals interfered with (cf. The Prospective Argument), and (ii) that paternalism is easier to justify the worse off the intended beneficiary is, in absolute terms or relative to others (cf. The Retrospective Argument), it is not clear that a combination of the two arguments would deem paternalizing socially privileged people easier to justify than paternalizing socially disadvantaged people. In the case from section III where we must choose between Privileged and Disadvantaged, the two arguments point in different directions. Paternalizing Privileged involves more Individual Good, but less Social Good. The opposite is the case if Disadvantaged is paternalized. These values for Privileged and Disadvantaged may exactly offset each other in an overall evaluation, or they can tip to one side depending on the specific sizes.

In the case of age-differentiated paternalism, the two arguments point in the same direction: it is generally the case that young people benefit more from paternalism than older people, because young people generally risk losing more years of life or must live with the consequences of their imprudent decision for a longer time. In other words, the Individual Good promoted by paternalizing young people is generally greater than the Individual Good promoted by paternalizing older people. Moreover, compared to older people, young people are worse off in the sense that they have had less time to live than older people, which means that the Social Good promoted by paternalizing young people is also generally greater than the Social Good promoted by paternalizing older people.

However, this does not preclude the existence of other relevant factors. For example, suppose that some activities involve greater risks for older people because older people have a harder time recovering from, say, a crash with a motorcycle.<sup>24</sup> In such cases, it is not unlikely that paternalizing the older person promotes more Individual Good than paternalizing the younger person.<sup>25</sup> However, paternalizing the young person may still

---

need to examine the motivation more closely to determine whether acts and policies aimed at promoting Social Good are paternalistic.

<sup>23</sup>As Grill (2018a: 54–56) argues, many policies and actions that interfere with a group of people will be paternalistic towards some members, but not paternalistic towards other members. In the smoking case, if there is no intention to promote the interests of ‘rich’ smokers, the benevolent-motive condition for paternalism is not met as far as this subgroup of smokers is concerned. Accordingly, the policy would not be considered paternalistic towards smokers from high-income groups.

<sup>24</sup>This example is from Pedersen (2023: 49fn12).

<sup>25</sup>Whether older people in general risk irreversible harm to a greater extent than younger people when they act imprudently is an empirical matter that I do not address further in this paper. While I focus on age-related aspects having to do with differences in (additional) life expectancies, this focus does not preclude that other age-related aspects are relevant as well. I am grateful to an anonymous reviewer for pushing me on this.

involve more Social Good. In such cases, whether or not paternalism towards the young person is still more justified than paternalism towards the older person for non-competence-based reasons depends on the differences in the Individual Good and the Social Good promoted by paternalizing each of them (which in turn depends on the degree of priority or inequality aversion built into the theory).

## V. Conclusion

It is a dominant view in the literature on paternalism that paternalism is easier to justify the greater good it promotes for the people interfered with. As people's additional life expectancies typically decrease with age, the expected benefits associated with introducing paternalistic acts and policies also seem to decrease with the age of the paternalizee. It follows that paternalism is generally easier to justify when directed at younger people compared to when directed at older people. This argument focuses on the intrapersonal value conflict between, on the one hand, respecting a person's freedom or autonomy and, on the other hand, catering to the person's interests or well-being. As the potential harm associated with an imprudent activity generally declines with the age of the person interfered with, the benefits of a paternalistic policy are more likely to substantially exceed the costs associated with the restriction in question if the person interfered with is young than if the person is older. At the same time, there is a greater risk that the costs of a paternalistic intervention exceed the benefits when the person interfered with is older.

However, it seems that we should not only include such intrapersonal considerations in the argument for age-differentiated paternalism. We should also consider whether the paternalistic acts and policies promote fair outcomes. The latter considerations also support age-differentiated paternalism. There is a relevant sense in which young people, who act imprudently and thereby risk their interests or well-being, are worse off than older people who act in similar ways. Again, the conclusion of the argument is that paternalism is more justified towards young people than towards older people.

While I defend this conclusion, it is not my intention to argue that paternalism towards young people is presumptively permitted (or, for that matter, that paternalism towards older people is presumptively unacceptable). Furthermore, although the two arguments provide indirect support for the view that paternalism towards children is easier to justify than paternalism towards adults, they do not in themselves give us reason to believe that there is a categorical difference between children and adults that warrants paternalism towards the former, but not towards the latter. The conclusion follows from applying the same justificatory standards across age groups. But even if one should apply different standards for children and adults, the points that the benefits and fairness-promoting prospects of paternalism decrease with the age of the people interfered with seem to remain considerations that should be included in the evaluation of specific paternalistic policies and actions.

**Acknowledgements.** A previous version of this article was presented at a workshop on Justice and Discrimination in Healthcare funded by CEPDISC and the DFF project, Cost-Effectiveness, and Non-Discrimination in Healthcare. I thank the participants for helpful comments. I am particularly grateful to Andreas Bengtson, Hugo Cossette-Lefebvre, Bjørn Hallsson, Søren Flinch Midtgaard, Lauritz Munch, Lasse Nielsen, and two anonymous reviewers for *Utilitas* for very helpful comments.

**Financial support.** This work was funded by the Danish National Research Foundation (DNRF144).

**Competing interests.** None.

## References

- Andersen, D. B.** 2021. I Have Got a Personal Non-Identity Problem: On What We Owe Our Future Selves. *Res Publica* 27: 129–44.
- Anderson, J., and Claassen, R.** 2012. Sailing Alone: Teenage Autonomy and Regimes of Childhood. *Law and Philosophy* 31: 495–522.
- Archard, D.** 1990. Paternalism Defined. *Analysis*, 50: 36–42.
- Arneson, R. J.** 1989. Paternalism, Utility, and Fairness. *Revue Internationale de Philosophie* 43: 409–37.
- Arneson, R. J.** 2005. Joel Feinberg and the Justification of Hard Paternalism. *Legal Theory* 11: 259–84.
- Bengtson, A., and Pedersen, V.** 2023. Affirmative Action, Paternalism, and Respect. *British Journal of Political Science*: 1–15. doi:10.1017/S0007123423000273
- Bognar, G.** 2015. Fair Innings. *Bioethics* 29 (4): 251–61.
- Bognar, G.** 2016. Priority Setting and Age. In *Prioritization in Medicine: An International Dialogue*, ed. E. Nagel and M. Lauerer. Cham: Springer, pp. 163–77.
- Bou-Habib, P.** 2006. Compulsory Insurance without Paternalism. *Utilitas* 18 (3): 243–63.
- Brighthouse, H.** 2003. How Should Children Be Heard? *Arizona Law Review* 45: 691–711.
- Broome, J.** 1988. Good, Fairness and QALYs. *Royal Institute of Philosophy Lecture Series* 23: 57–73.
- Buchanan, A., and D. Brock.** 1989. *Deciding for Others: The Ethics of Surrogate Decision Making*. Cambridge: Cambridge University Press.
- Carter, I.** 2018. Equal Opportunity, Responsibility, and Personal Identity. *Ethical Theory and Moral Practice* 21: 825–39.
- Casal, P.** 2007. Why Sufficiency Is Not Enough. *Ethics* 117: 296–326.
- Chapman, S.** 2012. The Case for a Smoker's License. *PLoS Medicine* 9 (11): 1–5.
- de Marneffe, P.** 2006. Avoiding Paternalism. *Philosophy & Public Affairs* 34 (1): 68–94.
- de Marneffe, P.** 2009. *Liberalism and Prostitution*. New York: Oxford University Press.
- Dworkin, G.** 2017. Paternalism. In *The Stanford Encyclopedia of Philosophy*, ed. E. Zalta, Winter 2017 ed. <https://plato.stanford.edu/entries/paternalism/>
- Enoch, D.** 2016. II – What's Wrong with Paternalism: Autonomy, Belief, and Action. *Proceedings of the Aristotelian Society* 116 (1): 21–48.
- Feinberg, J.** 1986. *Harm to Self*. New York: Oxford University Press.
- Fleurbaey, M., and Ponthiere, G.** 2022. The Value of a Life-Year and the Intuition of Universality. *Journal of Ethics and Social Philosophy* 22 (3): 355–81.
- Glod, W.** 2021. *Why It's OK to Make Bad Choices*. New York: Routledge.
- Godwin, S.** 2020. Children's Capacities and Paternalism. *The Journal of Ethics* 24: 307–31.
- Grill, K.** 2012. Paternalism. In *Encyclopedia of Applied Ethics* ed. R. Chadwick. 2nd ed. London: Elsevier Inc, 359–69.
- Grill, K.** 2018a. Paternalism by and Towards Groups. In *The Routledge Handbook of Paternalism*, ed. J. Hanna and K. Grill. Milton: Routledge, pp. 46–58.
- Grill, K.** 2018b. Paternalism Towards Children. In *The Routledge Handbook of the Philosophy of Childhood and Children*, ed. A. Gheaus, G. Calder and J. De Wispelaere. London: Routledge, pp. 123–33.
- Grill, K.** 2020. Respecting Children's Choices. *Moral Philosophy and Politics* 7 (2): 199–218.
- Groll, D.** 2012. Paternalism, Respect, and the Will. *Ethics* 122 (4): 692–720.
- Hanna, J.** 2018. *In Our Best Interest: A Defense of Paternalism*. Oxford: Oxford University Press.
- Hojlund, A-S.** 2021. What Should Egalitarian Policies Express? The Case of Paternalism. *The Journal of Political Philosophy* 29 (4): 519–38.
- Kappel, K., and Sandøe, P.** 1992. QALYs, Age and Fairness. *Bioethics* 6: 297–316.
- Le Grand, J., and New, B.** 2015. *Government Paternalism: Nanny State or Helpful Friend?* Princeton: Princeton University Press.
- Midtgaard, S.** 2016. Paternalism. *Oxford Research Encyclopedia of Politics*, <https://oxfordre.com/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-201> (27 May 2019).
- Nielsen, L.** 2021. Contractualist Age Rationing Under Outbreak Circumstances. *Bioethics* 35 (3): 229–36.
- Parfit, D.** 1984. *Reasons and Persons*. Oxford: Clarendon Press.
- Pedersen, V.** 2021. Respectful Paternalism. *Law and Philosophy* 40 (4): 419–42.
- Pedersen, V.** 2023. In Defence of Age-Differentiated Paternalism. In *Ageing Without Ageism: Conceptual Puzzles and Policy Proposals*, ed. A. Gosseries and G. Bognar. New York: Oxford University Press, pp. 41–52.

- Pedersen, V., and S. Midtgaard.** 2018. Is Anti-Paternalism Enough? *Political Studies* 66 (3): 771–85.
- Rawls, J.** 1971. *A Theory of Justice*, Rev. ed. Cambridge, MA: Harvard University Press.
- Sassi, F., Belloni, A., Mirelman, A. J., Suhrcke, M., Salti, N., Vellakkal, S., Visaruthvong, C., Popkin, B. M., and Nugent, R.** 2018. Equity Impacts of Price Policies to Promote Healthy Behaviours. *The Lancet* 391: 2059–70.
- Schapiro, T.** 2003. Childhood and Personhood. *Arizona Law Review* 45: 575–94.
- Shafer-Landau, R.** 2005. Liberalism and Paternalism. *Legal Theory* 11: 169–91.
- Shiffrin S.** 2000. Paternalism, Unconscionability Doctrine, and Accommodation. *Philosophy & Public Affairs* 29: 205–50.
- Stemplowska, Z.** 2009. Making Justice Sensitive to Responsibility. *Political Studies* 57: 237–59.
- Voigt, K.** 2010. Smoking and Social Justice. *Public Health Ethics* 3 (2): 91–106.