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**Paternalism:
A Search for Acceptable and Applicable
Principles of Intervention**

Jennifer L. Browning

1995

At seven-thirty-one A.M. on Saturday morning I am awakened by a phone call from mom, "Oh honey--it's a beautiful sunny day that I knew you wouldn't want to sleep through. Now that you are awake go outside and breathe the morning air....No, no, that's ok, I'll wait...you go ahead and do that.." After I breathe and get mom off the phone I reach over and turn on my stereo. As New Age music fills the room I remember when my roommate switched the George Winston music I fall asleep to with a subliminal weight-loss tape. (I lost five pounds that week--gained it back plus five more the next week). I grab my shoes and head toward the door--I don't want to be late for skydiving class--but as I am leaving my friend W. pulls into the driveway blocking my car. She jumps out, pulls me into her car and drives away, saying "Skydiving is for dangerous fools. I am taking you to play bingo instead."

More than likely you or I would not wake up to a day like this one, but the example is meant to illustrate something important. Paternalism is a common phenomenon, one we probably encounter more often than we realize. Even though we do not always realize them as such, thoughts and judgements on paternalism are employed in decisions we make in day-to-day situations about how to treat people. An investigation of this liberty-limiting principle, then, should be of practical interest to everyone, not just philosophers interested in theory. I will investigate the subject of paternalism by looking at a variety of definitions and examples,

exploring the autonomy-based antipaternalist positions of Immanuel Kant and John Stuart Mill, and finally, incorporating the ideas of Christine Korsgaard, a neo-Kantian philosopher, on personal identity into an argument for a Kantian version of respect for autonomy. Finally, I will present some general guidelines for paternalistic interference that can be applied practically.

Definitions and Ideas about Paternalism

The term "paternalism" carries traces of the idea "father knows best." Many aspects of the parent-child relationship operate on the presumption that the parent, mother or father, knows better than the child what is in the child's best interest. It is accepted that parents are authoritarians in their children's lives because it is assumed they, as mature individuals with benevolent motives, will be better judges of what is in the child's best interest than the child herself, who has less developed capacities for deliberation and rational choice. Paternalism in general can be thought of as an extrapolation of this model of authority to other relationships in which one party assumes a "parental" position of sorts over another party in the second party's own interests¹.

As defined by Gerald Dworkin, paternalism is "the interference with a person's liberty of action justified by reasons referring exclusively to the welfare, good, happiness, needs, interests, or values of the person being coerced" (20).

¹from Kleinig.

Joel Feinberg makes a number of distinctions between different types of paternalism: harm paternalism vs. benefit paternalism, and weak vs. strong paternalism. The goal of harm paternalism is protection of the object of paternalism from self-inflicted harm, where as the goal of benefit paternalism is the benefit of the object of paternalism.

The distinction between weak and strong paternalism Feinberg draws is based on the degree of voluntariness with which an agent engages in self-regarding conduct and has obvious similarities to John Stuart Mill's work. An action is voluntary to the extent that it is undertaken by an agent "informed of all relevant facts and contingencies, and in the absence of all coercive pressure of compulsion" (Feinberg SP48). (Misinformation, impaired judgement faculties, obsessive compulsions, immaturity and lack of physical control over one's own body all decrease the voluntariness of an agent's conduct.) Interference into another's self-regarding actions to determine whether or not an individual is acting voluntarily or in cases where an individual is indeed acting non-voluntarily is weak paternalism, and is generally accepted as justified even by antipaternalists because there is a sense in which the agent is not making a real choice to accept the risks involved in her behavior. (Feinberg does however point out that "Even substantially non-voluntary choices deserve protection" when they are not particularly dangerous or risky to the agent (SP49). Strong paternalism justifies limiting A's freedom to X where A's actions are primarily voluntary and where X

concerns/effects/regards only A, on the grounds that it is in A's best interest to be limited from X.

In Paternalistic Intervention Donald VanDeVeer defines a paternalistic act generally as one in which person A, with altruistic motives, interferes with S in ways "contrary to the operative preference or disposition" of S either to prevent harm to or promote benefit of S (19). By defining paternalism as interference "contrary to the operative preference of S", VanDeVeer is not trying to label 'unwanted' argumentation or discussion with S as paternalism, but is including various "suspect means" of "shaping preferences" and "indoctrination" to control others' "choices" within his definition (19). Subliminal advertising techniques, particular uses of hypnosis or sleep teaching, and brainwashing and propaganda campaigns are "mild" if not common examples of interference of this type and may not seem particularly threatening. Consider the other side of the spectrum, however: in A. L. Huxley's Brave New World people are invasively programmed and conditioned beginning almost from their scientific conception, to have only certain likes and dislikes, to hold only particular ideals and political preferences.

Some hold that to consider paternalism only as the intervention in another's actions is not to give it appropriate scope. Buchanan for example, argues that "to focus exclusively on interference with liberty of action, (however), is to construe paternalism too narrowly...Paternalism is the interference with a person's freedom of action or freedom of information...". (Buchanan

61-62). Withholding information from an individual because it is deemed by others to be harmful to her, or "forcing" particular information that others judge to be in her best interest on an individual who has chosen not to have the information, and giving wrong information to an individual, (ie. lying), because it is in "her best interest" are all forms of paternalism according to Buchanan.

Since both benefit paternalism and weak paternalism are relatively non-controversial, the former being generally rejected as unjustified, and the latter generally being accepted as justified, I will not deal such cases at any length here. Instead, the focus of my discussion will be the more controversial case of strong-harm paternalism, where the agent is at risk of greatly harming herself through conduct which is primarily voluntary.

Paternalism, The Harm Principle, and Legal Moralism

It is important not to confuse paternalism with other liberty limiting principles such as the Harm Principle and Legal Moralism. The harm principle justifies restricting one person's liberty in order to prevent that person from injuring other specific individuals or society in general. This is a relatively noncontroversial liberty-limiting principle as most people wholeheartedly support principles that protect their personal rights and liberty from infringement by others, and with a minimum of interference, this restriction puts a check on freedom that allows the preservation of the maximum amount of freedom for individuals

consistent with the same freedom for everyone else. Freedom without boundary degenerates into no freedom at all. Laws against battery, murder, rape, theft, etc. as well as particular traffic laws have as their object the protection of individual A from individual B and vice versa.

Legal paternalism, on the other hand, is state action or coercion (laws, statutes, court orders and rulings, etc.) with the goal of "protecting" individuals from inflicting harm upon themselves or consenting to be harmed by others. (In cases of illegitimizing consent to certain things, "B's agreement must be overruled for his own good, which the state presumes to know better than he" (Feinberg HTS172). Laws requiring prescriptions for the use of certain drugs, and mandatory education laws are often justified paternalistically as are laws against recreational use of particular drugs, dueling, prostitution, gambling, polygamy, aiding a suicide, and selling one's self into slavery.

Laws against prostitution and gambling in particular may be justified paternalistically, but the motivation behind such legislation may also be moralistic (Feinberg HTS172).

...is one person exploiting the weakness, or foolishness, or recklessness of another...If a weak, foolish, or reckless person freely chooses to harm or risk harm to himself, that is alright, but that is no reason why another should be a part to it, or be permitted to benefit himself at the other's expense" (HTS81).

Legal moralism is also applied in order to "protect" individuals' moral sensibilities and perhaps to guide them in "appropriate" directions as deemed by society in general. Laws against "harmless immoralities: such as consensual sexual practices done in private

by adults are examples of prohibitions justified moralistically. The distinction between legal paternalism and legal moralism is quite subtle, but I intend to deal only with paternalism and not legal moralism.

Examples of Paternalism

Paternalistic behavior is exhibited with regularity in many different contexts and situations; government, medicine, and personal relations all provide examples of paternalism.

Some of our laws, as I have already discussed, are primarily justified paternalistically; mandatory seat belts or helmets (in the case of motorcyclists), required health warnings on cigarette advertisements and packaging, public curfews and laws against dueling are more examples of legal paternalism. ²

Paternalism is also common in the field of medicine. Because of the nature of the physician-patient relationship, "medical expert" to "non-expert", and the solidly held goal of physicians to "benefit and not harm" their patients, many medical situations reveal paternalistic tendencies on the part of the physician. (Problems of truth-telling, treatment decisions, and confidentiality etc.) Also, because it is commonly argued that

²In some cases laws are justified on non-paternalistic grounds as well; the state may hold that it has an interest in protecting its citizens from injuring themselves or draining themselves financially and guiding them toward their own benefit as with mandatory education laws. As I lay comatose with brain damage after a motorcycle crash my decision not to wear a helmet no longer only affects myself; my insurance company, Medicaid, Medicare, and my employer all shoulder some part of the burden resulting from my decision to ride a motorcycle and not wear a helmet. If I grow up illiterate and uneducated, I may become a burden on tax-supported welfare systems because I can not get a job to support myself.

illness impairs autonomy, and therefore a patient's ability to make certain decisions may be impaired, problems of informed consent, refusal of treatment, guardianship, and proxy-decision making, all of which involve paternalism, exist in this context.

Personal relationships may also involve paternalistic behaviors; parent-child relations, friend to friend, lover to lover, etc. Such relationships are characterized by intimacy and interest in each other's affairs and attitudes of benevolence and concern are developed between individuals who care about each other and want to see each other have "good" lives. Thus an atmosphere very conducive to paternalistic impulses exists in many personal relationships; we may see ourselves as "protectors" of her needs and wants even when she doesn't protect them herself: "After being your best friend for ten years I know you better than you know yourself!"; we want him to have projects that are beneficial to him and we want these projects to succeed: ("I just want what's best for you").

Divided Intuitions

The task of remaining consistent while judging when paternalism should be considered justified is not an easy one because the nature of paternalism itself (i.e. "benevolent coercion/deception") seems inconsistent and our intuitions may differ vastly between virtually identical cases depending upon our perspective. When we act paternalistically toward someone, we often engage in coercion and deception of another person; in the former case we take over control of the individual's actions, leaving her

with no power over her own conduct, and in the latter case we undermine her knowledge of her own affairs-she does not know what is going on, so she cannot assent or dissent on matters that are purely her own, and this also robs her of control of her own person. These actions, lying and using force, are intuitively unappealing and seem wrong, but when we add the "good motives" or intentions of the paternalism, these actions take on a different light: benevolent motives at least intuitively seem right. Actions that we might not otherwise approve of seem at least acceptable, if not commendable, when they are motivated by "concern" for the good of another.

Our intuitions about paternalism also depend somewhat on our perspective of a paternalistic situation. When we are in the role of the "intervener" our benevolent impulses toward those we care about, or a sense of duty to "benefit and do not harm " seem to direct us to "protect" and "aid" other people when we see them as needing "help". Thus, we involve ourselves in the actions and decisions of others to "protect" them and "help" them choose projects and make decisions that we think of as being good or beneficial to them. When we ourselves are the object of such "protection" or "help", however, our intuitions may be entirely different; the "good intentions" of others seem overbearing and intrusive, or we may see too much outside "help" as smothering our freedom to do things for ourselves. (Analogously, think all the times you've given unasked for advice to others during times of "trouble"; after all, what's a friend for but to help out when

things seem to be going badly. Now think of all the "advice" your friends (or your mother) press on you when they think your life is not going quite right. The value of the "advice" often seems to depend on who is the advisor or advisee.) When sorting out our ideas and judgements on paternalism, we must try to imagine what it would really be like to live with these judgements. To do this, we must put ourselves in the place of the victim and imagine paternalism from her point of view.³

While further examination of the nature of paternalistic intervention reveals firm reasons for holding a strong presumption in favor of non-interference, the study of specific cases will more than likely produce situations in which this presumption will contradict our intuitions. This does not mean, however, that the presumption is inappropriate; it merely means it is not all-encompassing, and such a difficulty can lead to, at most, I believe, a slight weakening, but not complete disposal, of the presumption.

Paternalism in a Liberal Society

I would first like to establish a general presumption against interference with autonomy by using ideas some brought up by John Rawls in A Theory of Justice, though in something of a backwards

³This is an exercise in "Rawlsian" deliberative rationality: "...the rational plan for a person is the one...that would be decided upon as the outcome of careful reflection in which the agent reviewed, in light of all the relevant facts, what it would be like to carry out these plans and thereby ascertained the course of action that would best realize his more fundamental desires" (TOJ417).

fashion. ⁴ If we accept a liberal society, such as the one in which we live, as the best kind of society, we must acknowledge a strong presumption against paternalistic interference.

A liberal society is one characterized by an acceptance of different ideas and pursuits, including different conceptions of the good (life). People in a liberal society are free to deliberate, construct, and pursue their own idea of what is good (or of what constitutes the good life), constrained only by the minimal principles necessary to maintain social order. In other words, a liberal society favors using coercion only when necessary to make social life possible; so in order to maintain itself, such a society adopts and enforces basic principles that determine what is right or just, but allows its members to determine and pursue their own conception of what is good as long as this conception does not violate the basic principles of right. Within a liberal society, then, people have different conceptions of the "good life" and can expect these differing conceptions to be respected even though they may not be agreed with by others. Even as a pyrophobe I should respect my friend's decision to be a fire fighter, and even though she finds reading Rawls and Kant boring, she must respect my pursuits in philosophical inquiry and enlightenment.

Along with a personal conception of the good, each individual

⁴Rawls assumes a liberal society as being favored by his principles of justice, which he purported would be easily accepted by individuals (in the original position). I am working backwards assuming that most of my audience already (loosely, at least) favors a liberal society and there for should accept my principles of non-interference.

has a ranking system by which she labels certain elements of this good as more important or necessary than others; when decisions between two or more goods must be made, she determines what elements are worth sacrificing in favor of others and makes her choice appropriately. Different elements of good may move up and down a person's ranking scale as priorities, life stages, opportunities, etc. change.

For example, a good life to me may include challenging pursuits, intellectual exercise, and social contact with interesting people. For me as a 22 year old college graduate, the elements of this good life may include traveling across Europe alone, dating and meeting new people, and few commitments other than perhaps graduate school. I may, perhaps, choose at this stage to sacrifice intimate relationships with friends and lovers, stable employment, and financial security. At age 25 after three years of travel, advanced education, and non-committal relationships I may decide that a good life for me includes different elements; a full and satisfying personal life (family, friends, lovers,)), and a stable career may now be things that I find are worth the "cost" of shouldering the larger amount of responsibility that was before unattractive.

The point is, in a liberal society people are free to deliberate and choose what constitutes the good life for them, and decide what they are willing to endure or sacrifice to attain this good. When we occupy this position of deliberating and making choices (called the deliberative standpoint) we regard ourselves as

having the power to affect things in our lives and to choose between alternative paths and desires. Implicit in this control is the idea that we are autonomous. (See section on Korsgaard and Personal Identity for more on this.) If we do not consider ourselves as having autonomy, we do not regard ourselves as the causes of our own actions and therefore cannot make any effective choices about our conduct at all. From a liberal perspective where autonomy is so very important, there must exist a strong presumption against interfering with it. Thus, because the society we accept as the best society is a liberal one--one which has as a corner stone freedom of choice, which in turn requires autonomy to be effective and meaningful--we must also accept a strong presumption against interfering with autonomy, and thus against paternalism.

Mill and Kant: The Value of Autonomy

I will start by looking at the positions of two well known antipaternalists, John Stuart Mill and Immanuel Kant. Mill and Kant start from common ground with the idea of respect for autonomy, and indeed the basic line of argument is similar; both think of autonomy as extremely valuable and argue against paternalistic interference on the grounds that it undermines the freedom of rational beings to exercise their autonomy. The substance of the two arguments, however, is quite different. Kant and Mill value autonomy very differently and as such have different ideas as to what "respect for autonomy" should amount to.

Liberty, according to Mill, is pursuing our own good in our

own way and is the most important element of human well-being. Mill quotes from Wilhelm von Humboldt's The Sphere and Duties of Government: "...the end of man, or that which is prescribed by the eternal and immutable dictates of reason, ..is the highest and most harmonious development of his powers..." (55).

Human powers include "perception, judgment, discriminative feeling, mental activity, and even moral preference..."; these mental faculties are "exercised only in making a choice" and are improved and developed only by being used (Mill 56). In using, and thus developing, these faculties, I make and act on choices according to my own desires and inclinations and not those of others, ie. I act autonomously.

Autonomy is valuable to Mill, then, because it is an ingredient of the "ultimate" human end. Mill's idea of respect for autonomy is treating it as an important element that brings about good states of affairs for individuals and society at large: it should be protected, encouraged to develop, and maximized. Mill supports active measures to protect and increase individuals' freedom and it is by taking such measures when necessary (and not interfering when it is not) that we show respect for other's autonomy.

Kant values autonomy much differently; autonomy is unconditionally valuable, and valuable as an end itself, as a first cause and source of value; as such, autonomy can never be used merely as a means to some other end. (Thus, any autonomous being

is a "first cause" and should be treated as such. I will discuss this in more detail in the section "Kant's Antipaternalist Position".)

In order to understand where Kant gets this notion of autonomy as unconditionally valuable, we must wade through several levels of his theory before we reach autonomy at the center. According to Kant, a good will is the only thing that has intrinsic value--is "good in itself"--and all rational beings have wills (GMM395). Our wills are the causal forces behind our rational choices, and because we have wills, we have the capacity for rational choice. This capacity is what Kant calls humanity. Humanity itself is independently and unconditionally valuable, that is, valuable under any and all circumstances, and is the source of value for everything else. ⁵ Through our humanity we are value-producing beings; by rationally choosing things, we make them valuable and nothing else has any value independently of being chosen by rational beings.

As humanity is the source of all value, it must at all times

⁵Kant's claim that humanity is unconditionally valuable is not principally different from his claim about the unconditional value of a good will because humanity fully realized is the good will. Because the good will, which is unconditionally valuable, is humanity fully realized, humanity fully realized is unconditionally valuable. In fact, this vein of "unconditional value" can be traced all the way to rational nature itself; humanity, being the capacity for making a rational choice, is fully realized only when the choice itself is fully rational. The capacity to make fully rational choices is the capacity to have a good will. Merely having the capacity to make rational choices, "whether or not that capacity is realized, is enough to establish a claim on being treated as an unconditional end" because with this capacity for rational choice comes the capacity to have a good will, and a good will is unconditionally valuable (Korsgaard KFH 197).

be treated as unconditionally valuable; for, as Korsgaard explains, "If you overturn the source of the goodness, neither your end nor the action which aims at it can possibly be good..." (Korsgaard KFH197) Thus Kant's imperative that we at all times treat humanity in ourselves and other with utmost respect. Respecting another's humanity means respecting her capacity for rational choice; this means treating her as an autonomous agent, i.e. regarding her as someone who makes her own choices and is a "first cause" of her actions.

Mill's Antipaternalist Position

Because John Stuart Mill is perhaps one of the most well known proponents of utilitarianism, it may seem odd at first that he holds a strong antipaternalist position because initially utilitarianism does not seem to afford any strong presumptions against such interference. (Most arguments against paternalism charge that it undermines freedom and autonomy, and since utilitarianism does not place fundamental value on autonomy, paternalism seems to be of no independent concern to classical utilitarian theories.) Onora O'Neill elaborates on this in her article Paternalism and partial autonomy:

Utilitarian moral reasoning takes the production of welfare or well-being (variously construed) as the criterion of right action. Only when respect for patients' autonomy (fortuitously) maximizes welfare is it morally required. Paternalism is not morally wrong; but some acts which attempt to maximize welfare by disregarding autonomy will be wrong if in fact non-paternalistic action (such as showing respect for others

or seeking their consent to action undertaken) would have maximized welfare.

Mill, however, holds that the general good of individuals and society at large is generally maximized when the personal liberty/autonomy of rational individuals in the full "maturity of (their) faculties" is respected:

The reason for not interfering, unless for the sake of others, with a person's voluntary acts is consideration for his liberty. His voluntary choice is evidence that what he so chooses is desirable, or at least endurable, to him and his good is on the whole best provided for by allowing him to take his own means of pursuing it (Mill 101).

Mill's argument against paternalism according to Gerald Dworkin is as follows:

1. Since restraint is an evil, the burden of proof is on those who propose restraint.
2. Since the conduct that is being considered is purely self-regarding, the normal appeal to the protection of the interests of others is not available.
3. Therefore, we have to consider whether reasons involving reference to the individual's own good, happiness, welfare, or interests are sufficient to overcome the burden of justification.
4. Either we cannot advance the interests of the individual by compulsion, or the attempt to do so involves evil that out-weighs the good done.
5. Hence, the promotion of the individual's own interests does not provide a sufficient warrant for the use of compulsion (23).

The distinction used in premise two is one Mill draws between self-regarding and other-regarding actions. Under this

distinction, an action qualifies as self-regarding if it does not harm a particular person or violate a particular duty toward others. Since the harm principle does not apply in self-regarding actions, the only other justification available for interference in another's purely self-regarding actions are appeals to the person's own good, welfare, interests, etc. and this is patently paternalistic.

The key to Mill's antipaternalist argument is his claim that individuals are generally the best judges as to what is in their best interest and therefore it generally produces more good consequences to let them remain free to make their own decisions in self-regarding matters, than to let others, who are not as good judges of their best interest, interfere. There are two supporting premises for this claim: First, Mill holds that individuals are simply in the best position to decide what is good for them when it comes to purely self-regarding matters because they know more about themselves than anyone else; (This is simply an epistemic fact for Mill); secondly, Mill assumes individuals are the parties most concerned with their own well-being, so they will generally make the best decisions in self-regarding matters. Therefore, it seems that "we cannot advance the interests of the individual" by interfering with her actions through paternalistic coercion.

Related to his claim that individuals are generally the best judges of their own interest, is Mill's claim that when society or other individuals interfere in self-regarding matters,

even with benevolent motives, "odds are (they) interfere wrongly and in the wrong place" (81):

The traditions and customs of other people, are to a certain extent, evidence of what their experience has taught them...But it is the privilege and proper condition of a human being arrived at the maturity of his faculties, to use and interpret experience in his own way. It is for him to find out what part of recorded experience is properly applicable to his own circumstances and character (55).

When others, let's assume they are benevolent others, make decisions for me, they are taking it upon themselves to judge what is "best" for me based on their experience. Their experience, however, may be very narrow, or irrelevant to my situation; they may have misinterpreted the implications of their past experiences, or perhaps their idea of what is in my "interest" is not acceptable to me. This is obviously returning to the key idea that no one is a better judge of what is good for a rational individual than the individual herself. ⁶ Thus, Mill holds that society is better served on the whole (the net consequences are better) when people exercise their freedom as much as possible and this means making and acting according to their own decisions, and even their own mistakes:

All errors which the individual is likely to commit against advice and warning are far outweighed by the evil of allowing others to constrain him to what they deem his good (75)

and thus, "Mankind are greater gainers by suffering each other to

⁶Mill does, however, encourage debate, discussion, "...Advice, instruction, (and) persuasion" and allows that the ideas and opinions of individuals may be justifiably swayed or changed through such avenues (93).

live as seems good to themselves, than by compelling each other to live as seems good to the rest" (On Liberty).

Because of this strong presumption that interference generally does not serve the general good as much as allowing individuals to be free to self-legislate (even though they may make "mistakes"), there are very few situations, other than those which fall under the harm principle, in which an individual's liberty may be interfered with legitimately: Interferences that constitute weak paternalism--interferences in situations in which an individual's actions are primarily non-voluntary--are not particularly troubling to Mill. (In such cases the presumption against interference is reversed--it is up to the object of the interference to show why she should be allowed to proceed with her course of action.) An individual's liberty may be legitimately interfered with long enough to provide pertinent information or warnings regarding her intended action that she may not have, because without such information, her action is not really voluntary. Limited interference is also acceptable in order to determine whether or not an individual is acting voluntarily.⁷ If it is determined that an individual is acting voluntarily, further interference constitutes strong paternalism and is not

⁷Keep in mind that it is because Mill holds that individuals tend to be the best judges of what is in their own interest that interference in self-regarding actions usually has worse consequences than non-interference. If individuals are not the best judges, as they may not be without all relevant information and warnings, the presumption in favor of non-interference may not hold.

justifiable.

For example, suppose I know nothing about the problem of mixing electrical current and water. I tell my best friend that I plan to place my tv on the edge of the bathtub while I take a bubble bath because I want to watch the Five o'clock News. My best friend would be justified in restricting my actions long enough to let me know that by situating an electrical tv in a precarious position on a tub full of water I run a great risk of electrocuting myself. By doing so my friend is not really interfering with my liberty because as Mill says, "liberty consists in doing what one desires" (95) and I expressed my desire as wanting to watch tv in the bathtub, not electrocute myself. Since my actions have a good chance of leading me toward an end I could not have chosen because I did not know anything about (ie. electrocution), my actions are not primarily voluntary and allowing me to continue would have grave, irreversible consequences. After she informs me of the risk of electrocution, however, she is not justified in restricting my actions any further if I choose to leave my tv on the tub; this would be strong paternalism because my actions would now be primarily voluntary and according to Mill only I have the right to judge the risks associated with my desires and to decide whether they are too great bear.

Mill, however, also accepts, perhaps even requires, interference which constitutes strong paternalism in one case. For example, Mill adamantly supports restrictions which prohibit people from selling themselves into slavery--even though they may be

acting voluntarily in doing so. This endorsement of strong paternalism may seem contradictory to the extreme anti-paternalistic position Mill has created for himself; after all, why shouldn't I be free to choose to sell myself as a slave, especially to an entirely benevolent, intelligent master who will always make the best decisions for me? Mill's answer is this: when a person sells herself into slavery, she is abdicating her liberty--defeating the "very purpose which is the justification of allowing (her) to dispose of (herself)" (101).

Prohibiting a person from selling herself into slavery is justifiable according to Mill because in doing so we are we are protecting and respecting her "future liberty" to make decisions and choices later and we are securing a greater amount (or wider range) of freedom in general. The same type of argument supports prohibitions on suicide; selling myself into slavery or killing myself are directly destructive to my capacity to make my own choices and decisions. Mill holds that prohibitions on suicide, slavery, and other such "destructive" behavior, even though they are interfering with my freedom to voluntarily choose to act in a certain way in primarily self-regarding matters, protect more freedom than they limit, and are thereby justified.

Kant's Antipaternalist Position

The key idea to understanding Kant's position on paternalism is recognizing each person as having the capacity for autonomy, and therefore having the right to self-legislation. According to

Kant, because every person has a will, which is an autonomous power of causality, each person is herself a "free" or "first" cause and must always be treated as such. (In other words, to say one has a will, is to say that she has the capacity for rational choice, and should thus always be treated as though she is using this capacity and using it well.) To call someone a first cause is to say she has the power or ability within herself to decide to begin, and in fact to actually instigate, a particular chain of causal actions and reactions. Because she has the capacity to make (rational) choices, she can be the "starter" of chains of actions toward ends she has decided upon, or choose to be a part of another chain of action leading to another's end.

Always regarding another as a first cause means adopting a "hands off" type of respect: no "active" measures are to be taken to "protect" or "maximize" another's autonomy; for by the very act of "protecting" it, you are overriding it, because by interfering at all, you place yourself in a causal position above the individual and thus they are no longer a first cause, but a mediate one. We also have perfect duties to others to refrain from practicing coercion and deception because such practice makes it impossible for me to consent to contribute to an end or action. In taking away my opportunity to consent through coercing or deceiving me, others are robbing me of my status as a first cause:

The idea of deciding for yourself whether you will contribute to a given end can be represented as a decision whether to initiate that causal chain which constitutes your contribution. Any action which prevents or diverts you from making this initiating decision is one that treats you as a mediate rather than a final

(first) cause (Korsgaard RTL334).

When we engage in coercive or deceptive practices we treat someone else's person or reason (respectively) as a mediate cause; since they cannot assent to or dissent from contributing to our end they cannot share in it or make their end, and really have no causal power whatsoever. We are treating them as a mediate cause, as a mere means or tool to be used by us toward our end. A tool has two characteristics; it is to be used, and does not control itself (Korsgaard RTL335). If we return to the idea of paternalism as "benevolent coercion," it becomes clear that what is true of coercion is true of paternalism, regardless of my benevolent motives. Kant does not stop here, however; he makes it clear that we are not even to interfere with someone who we think is irrational to "save" or "protect" them from their own faulty reasoning. Korsgaard explains:

We are not only forbidden to use another as a mere means to our private purposes...We are also forbidden to take attitudes toward her which involve regarding her as not in control of herself, which is to say, not using her reason" (Korsgaard RTL 335).

What this tells us is that even when an individual makes inappropriate, "bad", or even dangerous choices we cannot interfere and deprive her of the right to self-legislation even though it seems she is doing a poor job of "legislating" to herself. (It is like the right to vote in United States elections; all citizens have it regardless of whether or not they are good judges of

presidents. Making poor judgments does not disqualify us from being judges.) We cannot treat some as less of an autonomous agent because she is exercising her autonomy "badly" or in ways we do not agree with:

We cannot decide someone is insufficiently autonomous merely because he makes some choices we would not have made in his place. But further: we cannot decide someone is not autonomous because he is regularly making decisions we know are bad in the sense of immoral. It is the capacity for autonomy, not its actual exercise, which gives a person the right to self-government (Korsgaard TAAL 40).

Thus, Kant's antipaternalist position in review: paternalistic interference into the affairs of autonomous persons is immoral because it treats them as mediate cause or mere means which is a direct violation of their autonomy. We can not manipulate a person's status as an autonomous agent and consider her less of one (who could therefore be paternalized) simply because we view the decisions she makes as a self-legislator to be incorrect or "bad".

Mill and Kant: A Last Comparison

Both Mill and Kant hold that strong paternalism is wrong because it infringes upon an individual's "right to decide". They disagree, however, as to why individuals have this right at all, and this difference brings up two different problems in their positions. For Mill, it is simply a fact that in general people are the best judges of what is in their own best interest, and therefore they should be the ones to make decisions in self-regarding matters. The problem here is that if a person is not the

best judge of what is in her best interest, she may justifiably be the object of paternalism. How do we decide whether or not a particular person is the "best judge"? We must determine whether she is rational and if her decisions are good ones. Not only does judging other's decisions calls for tricky value judgments (that especially as members of a liberal society) we should hesitate to make, but the idea of rationality is not black and white; if rationality is a matter of degree, how rational must a person be to be considered the "best judge" of her own interest? What constitutes irrationality? Answering these questions brings up many problems concerning arbitrariness and consistency that Kant's position avoids. For Kant, it does not matter whether or not an individual is the best judge of what is in her best interests because it is simply the capacity for autonomy that gives an individual the "right to decide", and all beings with a will have this capacity, (there is not the problem of determining whether or not the person is a "good judge"), thus paternalistic interference is prohibited, period.

Kant's position is much stronger than Mill's; in fact, the problem is that it is too strong. There are some cases in which it looks like strong paternalism is (or should be) justified that Kant's position would hold the opposite. I do, however, believe that Kant's notion of respecting persons is generally preferable and more appropriate than Mill's, and with the exception of certain types of situations, serves as a better guide by which to judge whether or not paternalism is justified.

Accepting a Kantian View of Persons as Autonomous, Value-Conferring Beings.

The Kantian idea of respecting persons as first causes (autonomous agents) encompasses something of great importance that Utilitarianism neglects nearly completely: notions of personal identity and of our relation to our own projects (i. our goals, actions, accomplishments, etc.) that cohere to our deep intuitions about our personal identity. ⁸

Korsgaard's account of personal identity emphasizes the importance of agency and authorship; we are who we are because we exercise our agency in certain ways according to various choices between desires. (To the extent I exercise authorship and agency, I am the person ME--I have a certain will.) Generally speaking, I identify myself as a person who has the power to be active leader of my life, and more specifically, I identify myself as the person I am--ME--as such because I have certain traits that are defined by my having certain desires and a particular way in which I choose between these desires in order to do particular things. I identify my SELF as a "thing" in a position "over and above" my desires; a position by nature of which my self has access to all of them, can deliberate, make choice, and act on the chosen desire. My relationship to my actions is essentially "authorial"; I cause them, I am responsible for them, and they are mine. Korsgaard

⁸In the section that follows are ideas from or inspired by the Kantian theory of personal identity laid out in Korsgaard's article "Personal Identity and the Unity of Agency: A Kantian Response to Parfit."

elaborates:

I believe that when we think about the way in which our own lives matter to us personally, we think of ourselves in this way. We think of living our lives, and even having our experiences as something that we do (PI331).

This "special" relationship to our actions is what utilitarianism disregards: under the utilitarian view we are merely bundles of experiences or persons who have things happen to them. Utilitarian agents are not only responsible for the consequences of their action, but also of their inaction. Consider this example: I am placed by a band of six stressed-out biology majors in a room that is empty, save a chair and a white control panel with a red button. It is explained to me that I have five minutes to press the button which will release poisonous, deadly gas into the locked office of a biology professor who is grading finals. (Death will immediately result for the professor.) The band of bio-rebels also informs me that if I have not pressed the button within five minutes, they will blow up the entire building, killing many more people and destroying expensive property. (The seven of us, however, will not be injured.) According to utilitarianism, if I do not press the button, I will be responsible for the bio-rebels blowing up Sherff, because through my inaction, I "caused" the consequences. In other words, what they do figures into my status as a moral being, and my own behavior, of not pressing the button, does not. This destroys my idea of myself as having a certain relationship to my actions which is very important; if I do not consider myself as the author of my actions,

my life loses an important kind of value for me. My successes and failures matter to me particularly because they are mine; I believe that I actively instigated them and that I am responsible for making the decisions leading to them. My actions and experiences have a special meaning to me; I get embarrassed or hurt when people laugh at something I DID because I am responsible for doing it--I was controlling or choosing the action.

...we are agents...we are free...and we are responsible...view ourselves in these ways when we occupy the standpoint of practical reason--that is, when we are deciding what to do. This follows from the fact that we must regard ourselves as the causes--the first causes--of the things that we will. (Korsgaard PI330).

Where utilitarianism, in the words of Bernard Williams, "alienates one from one's moral feelings", a Kantian theory encompasses our intuitions, and supports them. ⁹

Justifying Limited Strong Paternalism:
Maintaining a Kantian Perspective

According to a straightforwardly Kantian position, when I act paternalistically toward someone I am not allowing them to exercise their agency and be "authors" of their actions. I am not granting them the freedom of will necessary to be "moral creatures"-- I am not respecting their basic tie to humanity, the capacity to rationally set and pursue ends their own ends. Having this capacity to self-legislate (autonomy) is valuable because it is at the foundation of our concept of moral and personal identity. When

⁹I am not claiming that I have made this support entirely evident here, only that I have demonstrated how Kant's theory encompasses our intuitions about personal identity.

you act paternalistically toward someone you are not treating them as an autonomous agent capable of making certain choices; in short, you are undermining something as basic and necessary as their identity as the person they are and as deep as the basis of morality itself.

Because we intuitively, at a very deep level, regard ourselves as first causes and identify ourselves as "agents...free..and responsible..", I agree that it seems that a moral theory that hold autonomy as important at a very deep level is the most appropriate and attractive. (As rule, result oriented theories such as Mill's hold autonomy only as "derivative concern", where action based moral theories such as Kant's hold it as a "basic concern".) I do not, however, believe that such a view has no room for paternalistic interference. The most important reason we need to accept a Kantian view of why autonomy is so valuable is that our conception of personal identity relies upon it; so what we are actually respecting when treat someone as autonomous is their conception of themselves as the people they are. I hold that there are some situations in which paternalistic interference is not particularly detrimental to an individual's conception of personal identity, and therefore is justifiable. (This position obviously has Kantian undertones, but is not as strongly antipaternalistic as a pure Kantian view.)

Situations where there is an empirically high risk that can be eliminated through paternalistic interference, we are justified in

doing so. I also think that there are people who should be respected as having the capacity to make some decisions and not others. These situations are to be thought of as exceptions to a straight Kantian position, and when they are not present, we should operate according to the general Kantian rule of respect for persons. This position is not as strong as Kant's, but is still based in the idea a Kantian respect for persons as autonomous agents.

When is Paternalism Justified?

Partial Autonomy

According to Onora O'Neill, "Human autonomy is limited and precarious in many contexts..." and human beings are "imperfectly autonomous for a greater part of their lives" (174). In order to limit inappropriate paternalism and keep a Kantian antipaternalist argument based in respect for autonomy, I believe that we should operate from the premise that even at their best, human beings are not perfectly autonomous or perfectly rational beings.

This means that certain people in certain stages of their lives and perhaps certain situations may be paternalized more than others. In fact, each individual has a scope of autonomy that includes and disincludes certain choices from being made. Children, for example, have limited autonomy, and should not be granted the full right of non-interference, but they do have the capacity to make certain decisions and should be allowed to do so without paternalistic intervention. Other decisions, however, are

outside of their scope and rightfully fall to parents and others to make. People who are ill also may have limited autonomy, but can still make certain decisions as can people who are depressed, confused or ignorant.

Social Insurance Policies

When I make certain decisions or claims on myself, such as ones to quit smoking, to diet, to stop watching tv, I willfully pass a law for myself to follow. In following this law and "enforcing" it "against" myself, I am acting autonomously, as I made the decision and gave the law to myself. (I am not acting autonomously in following laws I had nothing to do with setting up.) Others, however, have no "right" to "enforce" my own laws against me. (This would be like the Canadian Royal Mounted Police holding occupation in the United States against the wishes of our government to enforce our speed limits on highways; even though our government set up the law to be followed, and indeed want people to respect it, the Canadian Royal Mounted Police have no right to give effect to our government's desires.)

If I do not follow my law, and "enforce" it on myself, ie. I keep buying cigarettes or eating hot fudge sundaes, the law really has no substance. (Laws do not amount to anything without being followed and enforced.) If my law is important to me, however, I want it to have substance and be effective, but my will may not be not strong enough to enforce the law I gave to myself at all times. In such situations, I can take out "social insurance policy" of

sorts that protects against my weakness of will. This "insurance" amounts to involving another person or group of people in the enforcement of my law by asking them to accept my end, say of not smoking, as their end also. (This means they adopt my quitting smoking as their end--they themselves do not have to quit smoking.) If I ask them to be involved, and they agree to be, I have given my consent for the law to be enforced against me by these people; I have entitled them to use coercion to "force" me to respect my law to myself when I do not do so on my own. When others consent to help me toward my ends, they are sharing or letting me use their "power" to choose and pursue ends. This is not disrespectful to their humanity (I am not treating them as a mere means) because they consented and in doing so adopted my end as theirs.

A social "insurance policy" does not last forever; like health insurance or life insurance it needs to be renewed periodically and may be canceled. In order for the "policy" to be effective, however, there must limits as when this can be done. When I am in the midst of a nicotine fit or experiencing withdraw symptoms I can not spontaneously announce that I no longer want others to enforce my law of "No Smoking" against me, and neither at such times may those who I have enlisted to "help" me enforce the law withdraw from our agreement. If at some point, when I am not at the moment experiencing the weakness of will I was seeking to protect against with an insurance policy, I wish to cancel the policy, I have the right to do so. (Those who have consented to hold the policy against me may also withdraw their consent under these

circumstances.)

Decreasing Risk (Procedural Paternalism)

Paternalism is justified in order to minimize the risks involved in certain behavior when the individual's freedom to do the action is not generally affected.

While this is strong paternalism, it is "procedural" only; what is regulated here is not an individual's freedom to do a risky action, only how, or under what conditions the action may be carried out. Mandatory helmet laws or seat belt laws, or other "safety" requirements are examples of this kind of paternalism. This guideline encompasses a strong intuition by allowing us to "help" or "protect" those we care about to the greatest extent possible while still respecting their autonomous choice, and therefore does not seem to have the problems that arise when "dangerous" or "risky" actions are not allowed. Also, this type of paternalism is no real threat to autonomous decision making and does not enforce a "code of values" that supposedly governs what is and is not an "acceptable risk" to take. (The paternalism is still barred from interfering simply because she does not agree an individual's choice to act in a particular way.)

A certain extent of paternalism is justified where the action is empirically risky and not reversible (or the probable outcome of the action is not reversible) and the agent's freedom to do the action is generally affected.

Paternalism to keep an agent from harming herself where the action is irreversible is justified in so far as first restricting the action for a period of time during which the agent's capacity for evaluation -not the evaluation itself- could be looked at. This period would serve as well as a cooling off period for the individual considering the action so that she may be certain she wants to choose this course of action. If the capacity for evaluation is found to be impaired, or if the agent is suspected of being under the influence of "suspect means of interference" (mind-altering drugs, hypnotic suggestion, etc.) that is, the action is non-voluntary, the agent may be paternalized until the capacity recovers. If the capacity is found to be appropriate for making the choice, the action would be voluntary, and thus further interference would constitute strong paternalism, but further interference consistent with procedural paternalism is justified.

When the evaluative rationality of an action is in question and the action is reversible, interference is not justified beyond intelligent argument.

What is involved in these cases is a value judgement and this immediately should call for a presumption against paternalism. (See the section on Paternalism in a Liberal Society.) Even if the agent's scale of value seems absolutely and inherently confused or incorrect, the action is reversible so a confused agent can indeed change her value scale in reflection after the action is done. Intellectual argumentation is always justified, for it only brings

new ideas to light or presents old ideas in new light and leaves the evaluation up to individuals.

In similar cases where the action is irreversible but poses no specific threat to the agent (threats to the general health, disposition, attitude or quality of life of an agent are not specific threats) paternalism is not justified beyond argumentation.

Specific Cases of Paternalism

1.

In the midst of severe depression T. joins a brainwashing cult. Every week she has a brainwashing appointment with a doctor in the cult whom she thinks is a psychologist. He brainwashes her to blindly follow the cult leader, and while brainwashed she doesn't feel depressed. (She does not know she is being brainwashed.) Sometimes between sessions the brainwashing wears off, and T, returns to her severe depression. She claims in these in between times that she enjoys cult life and doesn't feel depressed all the time any more. I kidnap T. from the cult and try to explain to her that she is being brainwashed. When the brainwashing has worn off she believes me, thanks me, and stays away from the cult and begins to see a real psychologist to help her depression.

This is a case of weak paternalism. Mill would say I was justified because while T. may have made a rational choice to be in the cult (It helped her depression, she made new friends, etc.), she did not make a voluntary choice to be brainwashed. Kant would say that my interference was not justified because I must respect T.'s capacity to reason, regardless of whether or not she is exercising it. My position is that because T. was the victim of "suspect means" of interference, ie. brainwashing, I was justified in intervening on her behalf.

What if given the information that she is being brainwashed, T. still wishes to return to the cult, claiming she is choosing to be brainwashed? This now strong paternalism because T. is acting voluntarily. Mill would say I could justifiably prevent her from doing so for reasons analogous to those why humans are constrained from selling themselves into slavery, ie. she is disposing of the very thing, her autonomy, that would require us to respect her choice to dispose of it. (Someone can not rationally choose to dispose of her rationality.) Kant, on the other hand, I believe would say that while T.'s actions are not right, I am not justified in interfering. I believe Kant would say that by choosing to be brainwashed T. is giving up her capacity for rational choice, and in doing so is disposing of herself as a "source of value" (see top of page 17), but since Kant's idea of respect for autonomy requires that I refrain from coercion, and "protecting" T.'s autonomy constitutes coercion, I am not justified in interfering even though T. is acting wrongly.

Now, if T. does not believe me when I tell her she is being brainwashed, maybe my evidence is not sufficient for her standards, and she wishes to return to the cult, am I justified in interfering? (In this case T. is not "choosing" to dispose of her autonomy by being brainwashed, she is simply choosing not to believe me.) This is strong paternalism. Mill would say that I am justified in interfering if T.'s decision is irrational; if she is simply refusing to accept my claim that she is being brainwashed in the face of good evidence, she is not making a rational choice,

and according to Mill, she is no longer the "best judge" of her own interest, and therefore paternalism is justified. For Kant, however, being the "best judge" makes no difference; I must respect T.'s choice even if she is a bad judge of her own interest. In this case I agree with Kant. I must assume that T. has reasons to disbelieve me--I must assume that she is using her rationality and using it well in this case. If I were to interfere and not allow her to return to the cult I would be showing immense disrespect for her right to decide whether or not to believe me.

2.

C. smokes heavily and tells me she wishes to quit for her health, but claims she enjoys smoking a lot and that she is too addicted to do quit. (Withdrawal symptoms, etc.) I secretly slip magic pills into her lunch food that make her no longer crave cigarettes; she does not feel any withdrawal symptoms, and the pills have no side effects. C. quits smoking.

This is strong paternalism. Mill would say I was not justified. C. is acting voluntarily, and as long as she smokes where it only effects her, I can not interfere. (If her smoking becomes an "other-regarding" action, then I can justifiably interfere under the harm principle.) Kant and I agree again; I was absolutely not justified in interfering in C.'s action, because I must respect her choice to smoke even though it is bad for health. (Kant does hold that we have duties to protect our health, but this duty is not categorical and rises out of prudence only.) Similarly, I hold that while smoking poses a risk, it is only a

general risk to her health. She knows the risks of smoking, and understands that it is a weakness of will that keeps her from quitting, but has not included me in her end of quitting smoking, so I can not give her will the extra "power" it needs to quit.

2a.

Now, C. has decided to quit smoking and has stated that in order to achieve this goal, she will no longer have in her possession cigarettes. "In order to quit smoking I will no longer carry cigarettes on my person or have them in my car or house, etc. I will not buy, bum, or steal cigarettes", she states. Later that day I see C. in Walgreens buying a pack of cigarettes. I run up to her, grab them away and refuse to allow her buy them. "I want to buy those", she yells. "Do you still want to stop smoking?" I ask. "Yes!!" she says. I do not let her buy them, and in fact follow her around making sure she does not buy, beg or steal any cigarettes.

This is strong paternalism. Again, Kant and Mill would both say I was not justified in interfering. I agree; even though C. made her intention public and in so many words admitted to having a weak will where smoking is concerned, she still did not assent to anyone's "help" (so it is not a "social insurance policy" case) and she is still acting voluntarily (so it is strong paternalism.)

2b.

C. has asked me to not allow her to possess cigarettes, "No matter how much" she protests, because she has decided to quit smoking and in order to do so she must not have cigarettes around.

I do not let her buy cigarettes even though later in the day she insists she has changed her mind and no longer wants to quit smoking.

This was strong paternalism because C's actions in insisting she wanted to smoke were primarily voluntary. I hold that I was justified in interfering, however, because C. and I "joined forces" so to speak; by asking for my help she is giving me the chance to decide whether or not to help her, (so she is not using me as a mere means), and also by asking for my help, she included me in her end and gave consent to have her law of "no smoking" enforced by me.

3.

My friend J. feels that the effort involved in making complex, informed decisions is just too much for her to handle. (She does fine with trivial ones like what to wear, what to eat, etc.) When she has lot of information she feels paralyzed in analysis and feels powerless to choose. She is so adamant about not wanting to be forced to "weigh the serious alternatives" between choices that she declares that no one is to provide her with any information about alternatives and that she plans to avoid as much information as possible, saying "Don't tell me ____X,____ I don't want to know. It is not in my best interest to know because it is detrimental to my well being to make complex decisions." I tell her____X_____.

This is a case of benefit paternalism. I was not justified in

telling J., It is not up to me to decide what is her best interest; because she has the capacity to decide what is in her own good and to pursue whatever that may be, I must treat her as if she using that capacity even though I do not agree with what she decides.

If however, X. was information concerning risks involved with J.'s conduct, I would be justified in giving her the information. This would be a case of strong paternalism because J.'s decision not to be given the information was voluntary, but I am justified in interfering because J.'s choice to continue the conduct would not be voluntary without the information concerning the risk.

4.

K is mildly but permanently ill. (Chronic fatigue, or mild flashes of pain-something uncomfortable but not totally debilitating.) The doctor says K. will live a long life, but there are many things she will not be able to enjoy because of her illness. (Her quality of life will be affected.) The doctor has also said that there is a possibility the illness will clear up on its own over time, but that a few doses of a light medication with no side effects will clear it up immediately and permanently. K. is opposed to taking medication and refuses treatment, saying she would rather "wait it out". I secretly slip the doses in her food. K. feels better, but assumes it is because the illness has cleared up on its own.

This is a case of strong-benefit paternalism in which I was not justified in interfering. K. was informed of the risks of not

taking the medication and of the positive effects it would have on her. I may think her choice is irrational, but that does not give me the right to interfere; it is her decision based on what she takes to be good reasons. I must trust that she is using her rational capacity and doing so well.

4a.

Same case, except K.'s illness is rapidly fatal, though not painful. (One dose of medicine will still cure it.)

This is now a case of strong-harm paternalism. K.'s actions of not taking the medicine is primarily voluntary and by interfering I am preventing her from harming herself by not taking it. I am justified in interfering here as in cases of procedural paternalism; interference would not be justified to "force" K. to change her stance on taking medication in general, but the risks she incurs when she acts on her position can be minimized. (This case should be especially clear, because there is no judgement being made about the quality of life; it is either life or death period.)

5.

JB loves bubble baths, and also loves to watch the news and her favorite sitcoms. In order to do both at the same time, JB places the tv on the side of the bath tub, running a great risk of electrocution. Thanks to her friend in the example in the section "Mill's Antipaternalist Position" she is aware of the risk, but

still chooses to continue watching from the tub, with the tv sitting on the side of the tub. Her friend tells her roommate to make sure that when JB takes a bath the tv is sitting on the counter across the room from the tub, and not on the tub itself. The next time JB takes a bubble bath, her roommate barges into the bathroom and moves the tv to the counter.

This is strong paternalism, but it is justified because the victim is not prevented entirely from doing the action, she can still bathe and watch tv, but the risk is greatly reduced.

Summary Remarks

The antipaternalist positions of both Mill and Kant turn on the notion of respect for autonomy. As I have discussed, Kant and Mill have different reasons for valuing autonomy, and therefore their ideas as to what constitutes "respect" are different. I argued that we should accept a Kantian notion of respect for autonomy over a Mill's because a Kantian view incorporates and preserves our deepest intuitions on personal identity. However, I think a straight Kantian view is too strongly antipaternalistic and I have therefore assumed a "quasi-Kantian" position. I have attempted to maintain a notion of respect for autonomy with Kantian undertones to preserve our conception of personal identity, while at the same time allowing limited strong paternalism.

Bibliography

Encyclopedia of Philosophy. New York: Macmillan, Inc. 1972.
(selected articles follow)

"Ends and Means". V. 2. p508-510.

"Kant, Immanuel". V. 4. p317-319.

"Ultimate Moral Principles: Their Justification". V. 8.
p. 179.

"Utilitarianism". V. 8. p206-211.

Feinberg, Joel. Harm To Self: The Moral Limits of the Criminal Law. New York: Oxford University Press, Inc. 1986.

Social Philosophy. New Jersey: Prentice-Hall. 1973.

Huxley, A.L. Brave New World. New York: Bantam/Harper and Brothers. 1962.

Kant, Immanuel. The Grounding for the Metaphysics of Morals. Indianapolis: Hackett Publishing Company, Inc. 1981.

Kleinig, John. Paternalism. New Jersey: Rowman and Allanheld. 1983.

Korsgaard, Christine. "Kant". Ethics in the History of Western Philosophy. ed. Cavalier, Goulinlock, and Sterba. St. Martin's Press. 1989.

"Kant's Formula of Humanity". Kant-Studien, 1986. [KFH]

"Morality as Freedom" in Kant's Practical Philosophy Revisited, ed. Y. Yovel. Kluwer, 1989.

"Personal Identity and the Unity of Agency: A Kantian Response to Parfit. Self and Identity: Contemporary Philosophical Issues. New York: Macmillan. 1991. [PI]

"The Right to Lie: Kant on Dealing with Evil". Philosophy and Public Affairs. 1989. [RTL]

"Two Arguments Against Lying". Argumentation. 1988. [TAAL].

"Two Distinctions in Goodness". The Philosophical Review. XCII, No. 2. 1983.

Mill, John Stuart. On Liberty. Elizabeth Rapaport, ed.
Indianapolis: Hackett Publishing Company, Inc. 1978.

O'Neill, Onora. "Paternalism and Partial Autonomy". Journal of Medical Ethics. 10, 173-178. 1984.

Rawls, John. A Theory of Justice. by President and Fellows of
Harvard College. 1971. [TOJ]

Sartorius, Rolf, ed. Paternalism. Minneapolis: University of
Minnesota Press. 1983. (selected articles follow)

Buchanan, Allen E. "Medical Paternalism".

Dworkin, Gerald. "Paternalism".

Feinberg, Joel. "Legal Paternalism".

Regan, Donald. H. "Paternalism, Freedom, Identity, and
Commitment".

VanDeVeer, Donald. Paternalistic Intervention: The Moral Bounds
on Benevolence. New Jersey: Princeton University Press.
1986.

Williams, Bernard. "A Critique of Utilitarianism".
Utilitarianism: For and Against. Cambridge: Cambridge
University Press. 1973.