

Goldman, “The refutation of medical paternalism”

Read the sections “The moral argument,” “The relativity of values,” and “The value of self-determination” (pp. 123 – 125).

You should also begin by reading the abstract on p. 120. For an article like this where you are reading the author’s argument for or against some position, it is extremely important to understand (and keep in mind while you are reading) which side the author is taking.

Goldman has two arguments against strong paternalism. (See p. 98 for the definition of *strong paternalism*. *Paternalism* and *autonomy* are also discussed on pp. 9 – 10.) We’re just looking at the moral argument against strong paternalism. This begins on p. 123 with the moral argument *for* strong medical paternalism (the 1 – 5). This is not the argument that Goldman is defending. It’s what he is arguing against. (That is, he wants to refute this argument.)

Strong paternalism can take a number of different forms. Goldman focuses, in particular, on cases where important or relevant information is withheld from the patient—for instance, a patient isn’t told how long she probably has to live or isn’t fully informed about the risks of a treatment. This is paternalistic because, although these actions are taken for the patient’s own good, they are violations of autonomy because they prevent the patient from making informed decisions.

In the argument on p. 123, 1 - 4 are statements (which are all supposedly true) that support statement 5, which is the conclusion of the argument. Since 1 - 4 are providing the support, they are called the *premises*.

To refute this (or any argument), we can try to show that the premises do not, in fact, support the conclusion. Or we can try to show that one of the premises is not actually true. Goldman takes the second route. He argues that all four are false—with much of his focus being on 3 and 4.

The relativity of values: Health and life

In this section, Goldman argues that premises 3 and 4 are false.

Some background content

This version of Goldman's chapter has been abridged (i.e., shortened), and he makes three references in the first paragraph of this section to parts of the chapter that aren't included in your anthology. Here is some explanation of those references.

(1) In the first sentence, he uses the term "paternalistic role differentiation." This, basically, is just referring to strong paternalism. Goldman defines *role differentiation* this way:

The right to know the truth in this context then derives from the right to make for oneself important decisions relating primarily to one's own welfare and to the course of one's life. If the doctor's authority is to be augmented beyond that of any nonprofessional, allowing him to override these important rights in contexts in which this is necessary to prevent serious harm to the patient's health, then his position appears to meet in a dramatic way our criteria for *strong role differentiation*.

So, *strong role differentiation* (or just *role differentiation*), means that the doctor has the authority to override a patient's autonomy in a way that a non-doctor doesn't.

(2) In the middle of this first paragraph, Goldman refers to the "train example" and the "motorcycle helmet case." These are examples where a paternalistic action is (apparently) justified. Goldman writes:

The easiest cases to justify are those in which a person is acting against even his immediate desires out of ignorance: Dick desires to take a train to New York, is about to board the train for Boston on the other side of the platform, and, without time to warn him, he can only be grabbed and shoved in the other direction. Coercing him in this way is paternalistic, since it overrides his right of free movement for his own good. "His own good" is uncontroversial in interpretation in this easiest case. It is defined by

his own clearly stated immediate and long-range preferences (the two are not in conflict here).

That's the train example. This is the motorcycle helmet case:

Jane does not desire to be seriously injured or to increase greatly her chances of serious injury for trivial reasons; yet, out of carelessness, or just because she considers it a nuisance and fails to apply statistical probabilities to her own case, she does not wear a helmet when riding a motorcycle. Here it might be claimed that, while her action is voluntary in relation to trivial short-term desires, it is nevertheless not fully voluntary in a deeper sense. But to make this claim we must be certain of the person's long-range preferences, of the fact that her action is inconsistent with these preferences (or else uncontroversially inconsistent with the preferences of any rational person). We must predict that the person herself is likely to be grateful in the long run for the additional coercive motivation. In this example we may assume these criteria to be met.

I will explain "value ordering" in a moment, but in this first paragraph of the section ""The relativity of values: Health and life," Goldman states, "In order for paternalistic interference to be justified, a person must be acting irrationally or inconsistently with his own long-range preferences." So, this criterion is satisfied (Goldman believes) in the train and in the motorcycle helmet examples. In those cases, we know that Dick wants to go to New York and doesn't want to go to Boston, and Jane prefers having an uninjured brain rather than having a debilitating brain injury. Those are their preferences. In both cases the first option is ranked higher than the second one:

- | | |
|--------------------|-----------------------------|
| 1. Go to New York. | 1. Have an uninjured brain. |
| 2. Go to Boston. | 2. Have an injured brain. |

The question that Goldman is going to address in this section, then, is whether we can "assume that health and prolonged life [always] have top priority in any rational ordering" of preferences.

Ordering

Let's start with an example of ordering a simple set of preferences: what you will have for lunch. (This isn't an example that Goldman uses, but it will help us begin thinking about ordering.) 1 is your most preferred option and the last one—a sandwich brought from home—is your least preferred. Given your time and money all of these (and everything in between 5 and the last one) are available to you.

1. a sandwich from Einstein Bros Bagels
2. a burrito from Moe's
3. a sandwich from Subway
4. leftover pizza brought from home
5. a sandwich from Starbucks
- ...
- #. a sandwich brought from home

So, as long as nothing interferes with you, you will get lunch from Einstein Bros.

The ordering that concerns Goldman is one that includes *prolonged life*. (Sometimes he refers to this as an *ordering of values* and sometimes as an *ordering of preferences*.) The third premise in the argument on p. 123 states that *health and prolonged life* will be at the top of this ordering. And these are other values or preferences that might be included in this ordering. (These are ones that Goldman mentions in this section. There can be others as well.)

life with autonomy and dignity
 completing unfinished projects
 accomplishments

The issue in this section ("The relativity of values") that Goldman is addressing is whether *prolonged life* is always at the top of the ordering. Or might some people put one of the others above prolonging their life, at least in some circumstances.

The second paragraph in column 1 on p. 124 (the one that begins “To doctors in their roles”)

There are actually two points being made in this paragraph (and so maybe it should be two paragraphs), but in any case, the first is about how a doctor, who is very invested in his or her role treating a patient, can mistakenly treat preserving the patient’s life as the ultimate goal.

The second, related issue is whether life has *intrinsic value*. Having intrinsic value means that something or some activity is valuable just for its own sake. Some candidates for things that might have intrinsic value are happiness, knowledge, and friendship. In contrast to intrinsic value is *instrumental value*: the value that a thing or activity has because of what it lets us do (i.e., its usefulness as an instrument). A shovel—assuming that it isn’t a piece of art or a historical artifact—has only instrumental value. Whatever value it has derives only from what we can accomplish with the shovel.

Arguably, health and life do have intrinsic value. Or maybe not. In the second half of this paragraph and in the next one (in col. 2), Goldman argues that life and health may only have instrumental value, which then is relevant to whether it is rational for a patient not to prioritize preserving his or her life.

The final paragraph in this section (the one that begins “Nor is avoidance of depression”)

In this paragraph, Goldman switches to addressing the first two premises in the argument on p. 125.

Here, he discusses some of the ideas that you encountered on p. 40 in Vaughn’s explanation of how Bentham and Mill disagreed about happiness (which is not to say that Goldman is talking about utilitarianism; he’s just discussing pleasure).