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## RESPECTFUL PATERNALISM

(Accepted 3 March 2021)

**ABSTRACT.** A common objection to paternalism concerns its expressive content. Many reject paternalistic policies and actions on the ground that they arguably involve insulting expressions of *disrespect* toward those subjected to them. The paper challenges this view. It argues that *refraining* from acting paternalistically can be disrespectful. Specifically, the paper argues that there is a relevant way in which A disregards the moral worth of B if A stands idly by when B is about to act very imprudently. If true, treating others with equal respect and concern, as relational egalitarians and others rightly ask us to do, will somewhat surprisingly sometimes involve treating them paternalistically.

### I. INTRODUCTION

Joe is about to empty a cup of anti-freeze. The outcomes of this may potentially include kidney failure, brain damage, and in worst-case, death. Ben is there too and watches the scenario. He is unsure whether Joe knows about the risks involved. Therefore, Ben swiftly takes the cup of anti-freeze away from Joe. It turns out that Joe is acting voluntarily; he knows exactly what he is doing.<sup>1</sup> He asks Ben to hand over the cup again. If Ben persists in preventing Joe from drinking the cup of anti-freeze, he saves Joe from a potentially terrible outcome. However, by infringing on Joe's liberty for his own good, Ben seems to be acting paternalistically towards Joe.

In the contemporary literature on paternalism, many agree that paternalistic acts and policies might lead to good distributive out-

<sup>1</sup> Joel Feinberg, *Harm to Self* (Oxford: Oxford University Press, 1986), p. 109; Danny Scoccia, 'In Defense of Hard Paternalism', *Law and Philosophy* 27(4) (2008): pp. 351–381, p. 358. Joe is what Alycia W. LaGuardia-LoBianco describes as a 'deliberate self-sabotour'. According to LaGuardia-LoBianco, '[s]elf-saboteurs act with the goal of making themselves suffer either as the intrinsic or instrumental goal and know that their action will achieve this effect'. See, Alycia W. LaGuardia-LoBianco, 'Self-Saboteurs and Ethical Relationships', *Social Theory and Practice* 45(2): pp. 249–285, p. 256.

comes, but at the same time, they insult and express impermissible disrespect for autonomous agents.<sup>2</sup> A similar point of view is emphasized in the literature on relational egalitarianism. In her seminal article against luck egalitarianism, Elizabeth Anderson argues that any egalitarian theory should be based on principles that ‘express equal respect and concern for all citizens’.<sup>3</sup> In her view, theories approving paternalism do not live up to this requirement, as paternalistic interventions involve a pejorative attitude that the people interfered with are not able to judge for themselves in self-regarding matters.<sup>4</sup>

While paternalism may be expressive of disrespect, I shall argue that there are similar moral problems associated with avoiding paternalism. Imagine, for example, that Ben meets Joe’s request, after which Joe takes the cup and empties it. The article argues that Ben’s failure to save Joe (though from himself) is hardly an instance of Ben treating Joe respectfully in all relevant the ways in which we ought to treat each other with respect. Specifically, Ben does not seem to express appropriate respect as his behavior involves a problematic expression of ‘insouciance’<sup>5</sup> or indifference to the plight of Joe. Accordingly, *avoiding* paternalism also comes with a price as regards the expressive dimensions of politics; it involves certain expressions of disrespect.

In addition to providing a novel argument for paternalism, the paper contributes to the development and understanding of relational egalitarianism. The literature on relational egalitarianism is steadily growing, but few have critically scrutinized the relational

<sup>2</sup> Kristin Voigt, ‘Paternalism and Equality’, in T. Schramme (ed.), *New Perspectives on Paternalism and Health Care, Library of Ethics and Applied Philosophy* 35 (2015): pp. 87–100; Kristin Voigt and Gry Wester, ‘Relational Equality and Health’, *Social Philosophy & Policy Foundation* (2015): pp. 204–229; Richard Arneson, ‘Joel Feinberg and the Justification of Hard Paternalism’, *Legal Theory* 11 (2005): pp. 259–284; Richard Arneson, ‘Paternalism, Utility, and Fairness’, *Revue Internationale de Philosophie* 43(179) (1989): pp. 409–437; Daniel Groll, ‘Paternalism, Respect, and the Will’, *Ethics* 122(4) (2012): pp. 692–720; Seana Shiffrin, ‘Paternalism, Unconscionability Doctrine, and Accommodation’, *Philosophy and Public Affairs* 29(3) (2000): pp. 205–250, p. 206; Paul Bou-Habib, ‘Compulsory Insurance without Paternalism’, *Utilitas* 18(3) (2006): pp. 243–263, p. 263.

<sup>3</sup> Elizabeth Anderson, ‘What is the Point of Equality?’, *Ethics* 109(2) (1999): pp. 287–337, p. 289.

<sup>4</sup> *Ibid.*, p. 301.

<sup>5</sup> Term from Viki Pedersen and Søren Midtgård, ‘Is Anti-Paternalism Enough?’, *Political Studies* 66(3) (2018): pp. 771–785.

egalitarian opposition to paternalism.<sup>6</sup> An important implication of the paper's argument is that it turns out unclear that relational egalitarians, who, like Anderson, highlight the fundamental requirement of theories of justice expressing equal respect and concern, should reject paternalism.

The argument is structured as follows. First, I briefly account for the ways in which I understand paternalism and respect, respectively. Second, I present two arguments for paternalism that appeal to the good distributive outcomes of paternalistically justified policies and actions. Third, I rehearse an objection to such policies and actions. According to this objection, paternalism involves problematic expressions of disrespect. Fourth, I provide and defend my main argument to the effect that *avoiding* paternalistic interference can be expressive of disrespect. Fifth, I briefly examine the anti-paternalistic strategy of defending some seemingly paternalistic policies with appeal to non-paternalistic reasons (i.e., without appeal to the interests, good or well-being of the people interfered with). I argue that this strategy also seems to involve certain disrespectful expressions. Finally, I conclude.

## II. PRELIMINARIES

The paper adopts the understanding of principled anti-paternalism that Kalle Grill tellingly calls the 'filter approach' to anti-paternalism. According to this, certain facts concerning the benefits achieved with respect to the interest, good or well-being of a person cannot count as a reason (or reasons) in favor of interferences with the person's autonomy or freedom.<sup>7</sup> In justifying liberty-limiting or autonomy-infringing policies and actions, principled anti-paternalism tells us to ignore or not give any weight to the interests of the persons subjected to them. Paternalists, on the other hand, accept the benefits

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<sup>6</sup> For exceptions, see Pedersen and Midtgård, 'Is Anti-Paternalism Enough?', p. 780; Anne-Sofie Hojlund, 'Mitigating Servility: Policies of Egalitarian Self-Relations', *British Journal of Political Science* (2021), <https://doi.org/10.1017/S0007123420000629>; Anne-Sofie Hojlund, 'What Should Egalitarian Policies Express?', *The Journal of Political Philosophy* (2021), <https://doi.org/10.1111/jopp.12245>.

<sup>7</sup> Kalle Grill, 'Anti-Paternalism as a Filter on Reasons', in T. Schramme (ed.), *New Perspectives on Paternalism and Health Care, Library of Ethics and Applied Philosophy* 35 (2015): pp. 47–63, p. 47. It should be mentioned that Grill is not explicit regarding what exactly these facts consist of.

(interests, good or well-being) to the agent interfered with as a valid reason for liberty-limiting, or more generally, autonomy-infringing policies and actions.<sup>8</sup>

Below, I argue that paternalism can be expressive of respect. Therefore, I now give a few interpretations of how we can express respect for each other. The list may not be exhaustive, but it represents certain central interpretations of relevance in the specific context of this article. *First*, one can express respect by showing admiration or esteem for someone elicited by his or her characteristics, abilities, or accomplishments for example. According to several critics, paternalistic agents fail to express this kind of respect. Paternalistically justified acts and policies are insulting in that they convey that the people interfered with lack the abilities or willpower necessary to make decisions regarding their own matters.<sup>9</sup>

*Second*, one can express respect by showing due regard for a person's desires, values, preferences, and rights.<sup>10</sup> *For example, in this interpretation, A acts respectfully towards B when A regulates her actions towards B in a way that treats B's will as being decisive.*<sup>11</sup> *In this regard, paternalism has been considered disrespectful as it involves interfering with a person irrespective of or contrary to the person's will in the relevant matter.*<sup>12</sup>

*Third*, expressing respect can be seen as expressing that there is a sense of worth attached to someone. According to Anderson, 'every individual has a worth or dignity that is not conditional upon anyone's desires or preferences, not even the individual's own desires'.<sup>13</sup> *By recognizing and acknowledging this moral worth in the ways we act toward each other, we express respect for each other. Paternalism, it has*

<sup>8</sup> Grill, 'Anti-Paternalism as a Filter'; Peter de Marneffe, 'Avoiding Paternalism', *Philosophy & Public Affairs* 34(1) (2006): pp. 68–94, p. 69; Feinberg, *Harm to Self*, pp. 25–26; Pedersen and Midtgård, 'Is Anti-Paternalism Enough?', p. 773.

<sup>9</sup> Jonathan Quong, *Liberalism without Perfection* (New York: Oxford University Press, 2011), p. 81; Anderson, 'What is the point', p. 301; Nicolas Cornell, 'A Third Theory of Paternalism', *Michigan Law Review* 113(8) (2015): pp. 1295–1336, p. 1316; George Tsai, 'Rational Persuasion as Paternalism', *Philosophy & Public Affairs* 42(1) (2014): pp. 78–112, p. 87.

<sup>10</sup> Stephen Darwall, *Welfare and Rational Care* (Princeton: Princeton University Press, 2002), pp. 14–15. The first interpretation is plausibly covered by what Darwall elsewhere describes as 'appraisal respect', whereas the second interpretation can be seen as an example of 'recognition respect'. See Darwall, Stephen, 'Two Kinds of Respect', *Ethics* 88(1) (1977): pp. 36–49.

<sup>11</sup> For example, according to Daniel Groll, respecting a person's will implies that it is treated as 'structurally decisive' in determining what to do (meaning that it silences other reasons). See Groll, 'Paternalism, Respect, and the Will'.

<sup>12</sup> Darwall, *Welfare and Rational Care*, p. 15.

<sup>13</sup> Anderson, 'What is the point', p. 219.

been argued, fails to express this kind of respect. For example, according to Carl Fox, '[w]e secure one another's status as agents by drawing some borders around the decisions that are exclusively ours to make. To interfere in a context where I ordinarily have the right to be the one in charge is to call my status into question'.<sup>14</sup> However, unlike the second understanding of respect described above, this third understanding does not necessarily require treating the person's will as decisive. For example, Anderson argues that recognizing others' moral worth implies that 'there are some things one may never do to other people, such as to enslave them, even if one has their permission or consent'.<sup>15</sup> Below (in section V), I shall argue that paternalism can be expressive of this third form of respect.

### III. TWO PATERNALISTIC ARGUMENTS

Paternalism, as indicated in the introduction, might lead to good distributive outcomes, but it implies, perhaps, problematic expressions of disrespect. Yet, I shall argue that paternalism is, in fact, required to avoid certain expressions of disrespect. This is especially so if we refrain from acting in order to prevent people from acting 'in ways that may irrevocably land them in insufficient situations'<sup>16</sup> (as is the case in the above scenario if Ben lets Joe drink the anti-freeze). However, to set the stage, I first briefly rehearse the relevant debate. That is, I address two outcome-focused arguments for accepting paternalism and the expressive objection against doing so.

According to Richard Arneson, there is a 'distributive-justice aspect to the issue of paternalism'.<sup>17</sup> Arneson draws a distinction between good choosers and bad choosers:

Through no fault or choice of their own, some people by genetic endowment and favorable socialization have lots of this [choice-making] ability and a disposition to employ it fully on appropriate occasions of choice; others have less ability and less disposition to deploy what ability they have. People vary by degree in these respects; for simplicity let us just speak of good choosers and bad choosers. On the whole and on the average, good choosers will tend to gain greater well-being in life, and bad choosers less.<sup>18</sup>

Holding all other things equal, Arneson argues that paternalistic policies and actions will benefit bad choosers comparatively more

<sup>14</sup> Carl Fox, 'What's special about the insult of paternalism?' *Law and Philosophy* 38 (2019): pp. 313–334, p. 323.

<sup>15</sup> Anderson, 'What is the point', p. 319.

<sup>16</sup> Pedersen and Midgaard, 'Is Anti-Paternalism Enough?', p. 771.

<sup>17</sup> Arneson, 'Joel Feinberg', p. 275.

<sup>18</sup> Ibid, p. 275.

than they will benefit good choosers. Good choosers are prone to making prudent and reasonable decisions, and thus, their choices will not be improved by paternalistic interventions. Bad choosers, on the other hand, are more inclined to make imprudent and unreasonable choices; that is, the kind of options ‘that paternalism would have removed from the choice set’.<sup>19</sup> In this way, paternalism has the advantageous feature that it seems to be equality promoting, which according to Arneson gives us a *pro tanto* reason to adopt paternalistically justified policies.<sup>20</sup>

In addition, Søren Midtgård and I argue that paternalism is necessary to ensure sufficiency. Like Arneson, our argument appeals to the distributive advantages of paternalistic interventions. Starting from Anderson’s well-known harshness objection to luck egalitarianism,<sup>21</sup> we emphasize two concerns which arise when people act in profoundly imprudent ways. The first concern of avoiding harshness tells us to assist people in need (when this involves reasonable costs to us). The second concern of avoiding insouciance ‘tells us not to stand idly by when people are about to act in ways that may irreversibly land them in insufficient situations’.<sup>22</sup> To avoid thoroughly bad or insufficient situations one must pay attention to this latter concern of avoiding insouciance. This point can be illustrated by ‘the paradigmatic case of the reckless biker Bert’:

In the wake of an accident causing serious harm to Bert, it would certainly be *harsh* not to assist him. This has gained the bulk of attention in the relevant debate. However, it is in a way glaringly obvious that some activities, including riding a bike without a crash helmet, carry the risk of landing those who engage in such activities with grave and partly irrevocable injuries. The latter include some that will transport individuals to insufficient situations on a permanent basis.<sup>23</sup>

As indicated in the quotation, providing assistance in the wake of certain imprudent actions (e.g. in the form of hospital treatment) sometimes does not suffice to avoid permanent situations of insufficiency. To avoid such situations, one must cater to the concern of avoiding insouciance – a concern that is discharged

<sup>19</sup> Arneson, ‘Paternalism, Utility, and Fairness’, p. 412.

<sup>20</sup> Note that Arneson’s argument hinges on the fact that paternalism is actually equality promoting. Accordingly, the argument is of no avail when bad choosers tend to be better off than prudent choosers, e.g. if being well-off has a tendency to make one more imprudent.

<sup>21</sup> Briefly described, the objection is that luck egalitarians will abandon individuals, who can be held adequately responsible for their imprudent activities, to severe deprivation.

<sup>22</sup> Pedersen and Midtgård, ‘Is Anti-Paternalism Enough?’, p. 771.

<sup>23</sup> Ibid., p. 774.

through the introduction of paternalistic measures.

#### IV. THE DISRESPECT OBJECTION

Kristin Voigt points out that the above types of arguments for paternalism (i.e. arguments that stress the distributive advantages of paternalistic actions) emphasize important and sometimes ‘under-appreciated’ aspects of equality. Such aspects should be considered when we assess the justifiability of paternalism. However, invoking paternalism arguably flies in the face of the basic egalitarian requirement that people should be treated with equal respect and concern.<sup>24</sup> At least, that is what Anderson argues.

As mentioned in the introduction above, Anderson believes that ‘the most fundamental test any egalitarian theory must meet [is] that its principles express equal respect and concern for all citizens’.<sup>25</sup> According to Anderson, egalitarian theorists fail this test when they appeal to paternalistic reasons for policies and actions. For example, she concedes that luck egalitarians may adopt mandatory universal social insurance schemes in response to the harshness objection; however, she objects to such schemes if they are justified with appeal to paternalistic reasons:<sup>26</sup>

In adopting mandatory social insurance schemes for the reasons they offer [that is, paternalistic reasons], luck egalitarians are effectively telling citizens that they are too stupid to run their lives, so Big Brother will have to tell them what to do.<sup>27</sup>

Anderson is not alone in thinking that paternalism is problematic for reasons of respect. In the literature on paternalism, it has often been argued that paternalistically justified acts and policies are expressive of disrespect and insult toward the individuals interfered with.<sup>28</sup> For example, Jonathan Quong has argued that paternalism shows disapproval of people’s ‘practical reasoning’ or ‘willpower’.<sup>29</sup> Nicolas Cornell writes that ‘[i]t is usually insulting to be told that you do not

<sup>24</sup> Voigt, ‘Paternalism and Equality’, p. 99.

<sup>25</sup> Anderson, ‘What is the point’, p. 289.

<sup>26</sup> According to Anderson, luck egalitarians *must* appeal to paternalistic reasons to ‘justify making mandatory the various universal social insurance programs characteristic of modern welfare states: social security, health and disability insurance’. *Ibid*, p. 301.

<sup>27</sup> *Ibid*.

<sup>28</sup> Voigt and Wester, ‘Relational Equality and Health’, pp. 225–227. Based on the work of Douglas Husak and Seana Shiffrin, Voigt and Wester expound this objection to paternalism in detail. See also Kristin Voigt, ‘Relational Equality and the Expressive Dimension of State Action’, *Social Theory and Practice* 44(3) (2018): pp. 437–467, pp. 461–462.

<sup>29</sup> Quong, *Liberalism without Perfection*, p. 81.

know best with regard to your own matters'.<sup>30</sup> And according to George Tsai, '[a]utonomous agents ... have reason to find the paternalistic action insulting, insofar as the paternalistic action conveys that they are insufficiently capable of advancing their own interests'.<sup>31</sup>

When A acts paternalistically towards B, A expresses that she is more qualified or competent to judge for B what is best for her. Thus, through her paternalistic act, A expresses that the relationship between A and B is characterized by an asymmetry of discernment – that she is superior to B in relevant aspects. This message is seen as an inherent characteristic of paternalistic behavior, which as Voigt points out, 'makes the expression of disrespect a central feature of paternalistic interventions'.<sup>32</sup> Clearly, such expressions are of relevance to relational egalitarians, who, like Anderson, defend an expressive notion of what it implies to treat others with equal respect and concern.<sup>33</sup>

According to Jason Hanna, there are two possible readings of the disrespect objection:

First, an act or policy might be insulting in the sense that it causes someone to *feel* insulted. Thus, an instructor who assigns a poor (but appropriate) grade to a student's work might thereby send an insulting message, insofar as the grade provokes the student's (perhaps unreasonable) feelings of insult. Second, an act or policy might be insulting in the more objective sense that it expresses something disrespectful, even if it does not provoke any feelings of insult. Thus, it might be insulting to make fun of a person behind her back, even if she will never find out.<sup>34</sup>

As the illustrative examples in the quote by Hanna suggests, we should plausibly go with the latter reading. In line with this more objective reading of the objection, paternalistic acts and policies express a disrespectful message – not because it actually causes

<sup>30</sup> Cornell, 'A Third Theory', p. 1316.

<sup>31</sup> Tsai, 'Rational Persuasion as Paternalism', pp. 85–89.

<sup>32</sup> Voigt, 'Paternalism and Equality', p. 97.

<sup>33</sup> Specifically, as Kasper Lippert-Rasmussen formulates it, Anderson's view seems to assume the following relation between 'treating' and 'expressing': 'X treats Y with equal concern and respect if, and only if, X treats Y on the basis of principles that express equal respect and concern'. Kasper Lippert-Rasmussen, *Relational Egalitarianism: Living as Equals* (Cambridge: Cambridge University Press, 2018), p. 79. However, as he points out, it is also possible to find support for an alternative point of view by Anderson. According to this, 'one can act disrespectfully even if one does not act from a principle which expresses disrespect'. *Ibid.*, p. 79, footnote 25. Nevertheless, if expressions of disrespect are a main characteristic of paternalistic acts and policies, paternalism seems regrettable regardless of which of the two views one adopts.

<sup>34</sup> Jason Hanna, *In Our Best Interest: A Defense of Paternalism* (Oxford: Oxford University Press, 2018), p. 68.

someone to feel insulted,<sup>35</sup> but merely because feelings of insult would be an appropriate reaction to such acts and policies.

The above expressive objection to paternalism can be directed more specifically at paternalists who voice the two distributive arguments described above. Regarding Arneson's argument, Voigt points out that Arneson's division of choosers, where someone is referred to as being 'good' and others as being 'bad', gives cause for concerns about disrespect.<sup>36</sup> Arneson emphasizes that the group of 'bad choosers' is characterized by having less decision-making abilities, which makes his voicing of the argument especially susceptible to the concerns raised above regarding assessments of asymmetric discernment.<sup>37</sup>

Regarding the argument that Midtgaard and I present, it may be objected that the consideration of expressing respect tells us not to interfere with others' self-regarding conduct. At the same time, in recognition of them as individuals of moral worth, we should stand ready to assist people when the risk of their imprudent behavior materializes. Accordingly, the concern of expressing respect gives us reason to permit Bert's helmetless motorcycling but then make sure to offer him assistance if an accident occurs (although this approach does not necessarily protect Bert against irreversible suffering). To use the same terminology as above, the disrespect objection seems to imply that we should cater to the concern of avoiding harshness, but not the concern of avoiding insouciance.

One point further explains the expressive objection to Midtgaard's and my argument. Even if we are right that we can only protect people's health adequately if we supplement the provision of health care with certain paternalistic policies, it might be objected that we should not restrict our attention to what Voigt and Gry Wester refer to as 'a need-based justification for the provision of health care'.<sup>38</sup> The value of providing assistance in the Bert example may not lie primarily in its function of promoting good health outcomes. As Voigt and Wester point out, the provision of assistance in the form

<sup>35</sup> Ibid, p. 69.

<sup>36</sup> Voigt, 'Paternalism and Equality', pp. 97–99.

<sup>37</sup> Note that there seems to be a relevant difference between objecting to an argument and an agent voicing an argument (even if we cannot object to an argument that is valid and consists of true premises, we might still object to an agent voicing the argument). I take the disrespect objection to be an instance of the latter, i.e. the objection is that an agent who seeks to bring about a certain distribution with appeal to paternalistic reasons must make disrespectful expressions. Here, I am inspired by Lippert-Rasmussen, *Relational Egalitarianism*, p. 78.

<sup>38</sup> Voigt and Wester, 'Relational Equality and Health', p. 212.

of health care could have an ‘expressive dimension’ of relevance to relational egalitarians.<sup>39</sup> This expressive dimension is characterized by not emphasizing the particular health-related effects of health care. Instead, focus is on which signals, values, and attitudes are expressed through the provision of health care. The provision of health care can be seen as an expression of how we should treat each other. Moreover, the expressive character of policies and actions is reflected in the way these are justified.

To elaborate on the latter point, consider Anderson’s defense of compulsory health insurance. As pointed out above, Anderson objects to paternalistically justified health care as she believes that the paternalistic rationale fails to express respect for the individuals interfered with.<sup>40</sup> Instead, she suggests an alternative argument for universal health care. The first part of the argument is Kantian-inspired and can be phrased as follows:<sup>41</sup>

- 1) We have an obligation not to act in a way that disregards the moral worth of our fellow citizens.
- 2) We disregard the moral worth of our fellow citizens if we do not offer aid to them when their health needs are urgent.
- 3) Ergo, we all have an obligation to offer aid to our fellow citizens when their health needs are urgent.

According to Anderson, this obligation to offer aid gives us reason to adopt compulsory health insurance: ‘Since this is an obligation we all owe to our fellow citizens, everyone shall be taxed for this good, which we shall provide to everyone. This is part of your rightful claim as an equal citizen’.<sup>42</sup> Anderson believes that her reason for providing health insurance is to be preferred to the paternalistic reason as it ‘better expresses respect for its recipients’.<sup>43</sup> In this way, it is important to the expressive dimension of health care not only that such care is provided, but more so, that it is provided with appeal to respectful reasons.<sup>44</sup>

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<sup>39</sup> Ibid.

<sup>40</sup> Anderson, ‘What is the point’, p. 331.

<sup>41</sup> Ibid, p. 330.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid, p. 331.

<sup>44</sup> Voigt and Wester, ‘Relational Equality and Health’, p. 213.

Until now, I have outlined outcome-focused reasons for and expressive reasons against paternalism. Below, I argue that the consideration of avoiding insouciance is not only a distributive but also an expressive consideration. Specifically, I identify a way in which we fail to express respect for imprudent people if we stand idly by when they are about to act in ways that may irrevocably land them in insufficient situations. If I am right, this argument throws new light on the requirement that theories of justice must express equal respect and concern for all citizens. It challenges that paternalism necessarily conflicts with this requirement.

#### V. AN EXPRESSIVE, RESPECT-BASED AND PATERNALISTIC REASON FOR AVOIDING INSOUCIANCE

Below, in section A, I suggest and defend an argument for the concern of avoiding insouciance that pertains to the expressive sphere within which Anderson's reasons operate. Specifically, I argue that we have an obligation to avoid insouciance that is founded in the moral worth of others. The argument is *respect-based* and plausibly paternalistic. It is paternalistic if people's moral worth is something of personal value, partly constituted in their interests and well-being. However, the argument is not paternalistic if people's moral worth is something of non-interest-related value (e.g. as Anderson seems to suggest). In section B, I argue that we should accept the paternalistic interpretation of the argument.

As we have seen, paternalism has been criticized for expressing disrespect. However, the upshot of the following argumentation is that there is an important way in which paternalistic acts and policies cater to a requirement of expressing respect.

##### A. *The obligation not to stand idly by*

The respect-based argument for avoiding insouciance appeals to the unconditional duties of third parties. It is similar in nature to Anderson's argument for compulsory health insurance. Both arguments appeal to ways in which we may disregard the moral worth of our fellow citizens when their well-being is threatened. Anderson argues that we disregard the moral worth of our fellow citizens if we do not offer them aid. I accept this but also point out that we do not

recognize other people's moral worth when we stand idly by in relevant situations. As described above, one way of expressing respect towards another person is by taking due account for the person's moral worth in the ways in which we act toward him or her. Accordingly, if the argument that I am about to give is sound, it provides a respect-based justification for the duty to avoid insouciance. The wording of the argument is as follows:

- 1) A has an obligation not to act in a way that disregards the moral worth of B.
- 2) Even when B does not consent to A's interference, A disregards the moral worth of B if A stands idly by when B is about to act in a way that may irrevocably land him or her in an insufficient situation.
- 3) Ergo, even when B does not consent to A's interference, A has an obligation not to stand idly by when B is about to act in a way that may irrevocably land him or her in an insufficient situation (that is, A has an obligation to avoid insouciance).

In the anti-freeze example, the argument implies that Ben neglects his obligation to avoid insouciance if he can prevent Joe from drinking the anti-freeze but refrains from doing so.

The first premise of the argument seems uncontroversial, especially for those who are sympathetic to relational egalitarianism.<sup>45</sup> As regards the second premise of the argument, it can be difficult to determine when a person recognizes or fails to recognize the moral worth of another person. Still, to substantiate that there is a clear sense in which A fails to recognize the moral worth of B when A neglects to avoid insouciance, it might be relevant to consider the following case, which I will henceforth refer to as *test case 1*.

*Test case 1:* Suppose that Joe wants to tease Ben and pretends that he is about to drink a cup of anti-freeze. However, the contents of the cup are not anti-freeze but a kind of harmless soda that can easily be confused with anti-freeze. As in the previous examples, Joe asks Ben not to stop him and convinces Ben that drinking anti-freeze is in fact a voluntary decision. In response to Joe's request, Ben remains passive while Joe empties the cup. After having emptied the cup, Joe looks at Ben with a very serious and disappointed expression on his face: "Come on, Ben! Would you really let me do that? Is that how you appraise my moral worth?"

Admittedly, few people speak that way. Nevertheless, even if we grant that Joe's little stunt is distasteful and that Joe asked for it

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<sup>45</sup> Se e.g. Anderson, 'What is the point', p. 312, 330. However, to the extent that a person's moral worth is seen as something of purely impersonal value, the strength of the obligation might be relatively weak. For a detailed argument for this view, see Soren Midtgård, 'Non-Renounceable Rights, Paternalism and Autonomy', *Utilitas* 27(3) (2015): pp. 347–364.

himself (and even if Joe and Ben were not friends but just fellow citizens), Joe's disappointment over Ben's passive reaction seems, at least partly, reasonable in this case. When Ben stands idly by, he seems to disregard the moral worth of Joe.

It might be objected that Ben does not necessarily stand idly by when he decides not to interfere with Joe's decision to drink the anti-freeze. Imagine, for example, that Ben goes to extreme lengths in trying to persuade and encourage Joe not to undertake the risk, but in the end leaves it up to Joe whether he wants to drink the liquid or not. In fact, we can assume that Ben is very emotionally affected by the situation and that he would undoubtedly intervene were it not because Joe had clearly stated his decision. Moreover, Ben will make sure to call for assistance as soon as Joe has emptied the cup (which, however, may be too late to prevent irreversible harm). In these ways, Joe's interests or welfare do provide Ben with decisive reasons to take different actions. However, in accordance with the anti-paternalistic principle, Ben refrains from allowing a concern for Joe's interests or welfare to play a role in the decision to actually interfere with Joe's autonomous choice. Still, it might be argued that Ben does not stand idly by in the sense that he does not express total indifference to Joe's interests or wellbeing.

I grant that 'not standing idly by' is a matter of degree and that there is a great number of non-passive actions that Ben could take without actually interfering. The question is how far up the scale one must go to fulfill the duty to avoid insouciance adequately. For example, if serious attempts at rational persuasion are considered enough to discharge the duty this seems to challenge my argument to the effect that paternalism can be necessary to avoid insouciance. In response to this challenge, one may invoke an argument by Tsai according to which even rational persuasion can be objectionably paternalistic. Specifically, according to Tsai, rational persuasion is so if it (i) is 'guided by, the motive of distrust in the other's capacity to gather or weigh evidence', (ii) expresses that the other is 'insufficiently capable of canvassing or weighing reasons' for him or herself, and (iii) deprives the other of an opportunity to engage with the reasons without one's influence.<sup>46</sup> These three conditions may plausibly be satisfied if Ben does everything he can to persuade and

<sup>46</sup> Tsai, 'Rational Persuasion as Paternalism', pp. 79–80.

encourage Joe not to drink the anti-freeze. Thus, Ben may be acting paternalistically even if he does not actually interfere with Joe.

This rejoinder, however, will probably not satisfy everyone. While even rational persuasion may sometimes be expressive of distrust in other people's decision-making capacities, it ultimately leaves it to people themselves what they want to do with their own lives. Accordingly, one may remain skeptical about the claim that offering reasons and encouragement can be a paternalistic method of influence.

In response to these sceptics, I will go even further and argue that Ben *does* stand idly by when he refrains from actually interfering with Joe *even if* he takes a number of steps to prevent Joe from drinking the anti-freeze. Satisfactorily discharging the duty to avoid insouciance implies that one is willing to take actions that move beyond the anti-paternalistic principle (even if rational persuasion does not). To avoid insouciance adequately, it is not enough that you express that you care about a person if you do not act sufficiently on your concern for the person's interests or wellbeing. In some cases, to act sufficiently on the relevant concern you must interfere in order to prevent effectively that the person irrevocably land him or her in an insufficient situation.

In support of this point, consider now *test case 2* in which we suppose again that Joe is simply pretending that he wants to drink the anti-freeze. However, now we imagine that Ben does everything he can to persuade Joe to give up his act. Eventually, Joe raises the cup to his lips making it very easy for Ben just to push the cup out of his hand.<sup>47</sup> Ben chooses not to interfere. In this case, Ben does much to prevent Joe from performing the (seemingly) dangerous act. However, Joe still seems to be justifiably disappointed that Ben did not actually intervene. In addition to the reaction from *test case 1*, he could say, 'You had every opportunity to effectively prevent me from doing this horrible thing to myself, but you didn't!' Even though Ben, through his non-interfering attempts to prevent Joe from drinking the anti-freeze, expresses that he cares for Joe and does not want him to hurt himself, it still seems expressively problematic that he will eventually allow something very terrible to happen to Joe.

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<sup>47</sup> It should be mentioned that Ben's duty to interfere with Joe seems to be conditional on Ben not incurring unreasonably high costs in doing so.

If the argument is sound, it offers a respect-based rationale for the duty to avoid insouciance. Importantly, the argument does not entail that we do not have countervailing respect-based reasons to stand idly by. For example, in the above case, Ben might have the following response ready: ‘Much as I hated to see you wreak havoc upon yourself and were accordingly inclined to stop you, I respect your autonomous decision. At the end of the day, it is your life. This is the arguably respectful rationale that I acted on’.<sup>48</sup> Accordingly, Ben seems to face a dilemma between two different ways of expressing respect. Formulating how exactly to weigh the competing arguments against one another is a notoriously difficult task and beyond the scope of this article. However, to sketch a framework for the relevant analysis, I shall briefly point to some general factors that plausibly affect the strength of the respect-based reasons for interfering or the respect-based reasons against doing so.

First, as formulated above, the argument for the duty to avoid insouciance concerns activities that may irrevocably land people in insufficient situations. Despite this delimitation, one will see variations in the risk and severity of self-harm across relevant cases. In this context, it seems most problematic to stand idly by when the extent and irrevocability of potential harm is great and the probability of the harm occurring is high.<sup>49</sup> The strength of the argument plausibly varies with such factors. For example, there seems to be an important difference between trying to prevent a person from rushing off on her high-powered motorcycle without wearing a helmet and seeking to stop her from cycling helmetless to the bakery on a Sunday morning with not much traffic.

Second, the strength of the respect-based argument for interfering seems to depend on whether there are effective non-interfering alternatives available. As the above discussion suggests, the case for interfering with people’s autonomy is strongest if such interference seems necessary to prevent harm. In general, when deciding how to prevent another person from harming him- or herself, it seems plausible that one should, as far as possible, follow what Gerald Dworkin denotes as ‘a principle of the least restrictive alternative’.<sup>50</sup>

<sup>48</sup> I owe this point to Søren Flinch Midtgård.

<sup>49</sup> I borrow these criteria from Feinberg, *Harm to Self*, pp. 117–124.

<sup>50</sup> Gerald Dworkin, ‘Paternalism’, *The Monist* 56(1) (1972): pp. 64–84, p. 84.

This would contribute to minimize the extent to which the intervention disregards the person's own will.

Third, the strength of the respect-based argument against interfering plausibly varies with how much the person values performing the relevant activity without interference. The insult associated with interfering with a person's liberty or autonomy seems to be more profound when directed at activities that constitute integral parts of the person's life plan.<sup>51</sup> Thus, when weighing the competing respect-based arguments, one should include a consideration of how important the activity is to the person performing it.

If we examine the anti-freeze case based on the above factors, the analysis seems to fall out in favor of paternalism. The extent, likelihood and irreversibility of harm is great, and interference seems necessary to prevent harm effectively. Moreover, in this hypothetical case, let us just stipulate that preventing Joe from drinking anti-freeze is not something that will deprive him of the opportunity to achieve an important aspect of his life plan. Of course, nothing precludes that drinking anti-freeze could be of great importance to Joe and his self-understanding. In that case, the analysis would be much more difficult. However, on balance, I am still inclined to think that the most respectful thing to do would be to interfere with Joe's autonomous decision to poison himself.

Obviously, drinking anti-freeze is a marginal case. Nevertheless, as people often put themselves in harm's way, the respect-based argument for interference becomes relevant in a wide range of situations. While balancing the competing arguments will probably not lead to a ban on, e.g., motorsports or mountain climbing, it may be possible to require that these activities are carried out using safety equipment (such as helmets, seatbelts or back protectors) without thereby compromising an overall consideration for expressing respect. Defending particular policies, however, will require a more in-depth and empirically informed analysis based on factors such as those presented above. For now, I hope to have established that a consideration for respect implies that we include the above argument in favor of interference when evaluating the relevant policies.

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<sup>51</sup> Ibid, pp. 82–83. See also Julian Le Grand and Bill New, *Government Paternalism: Nanny State or Helpful Friend?* (Princeton & Oxford: Princeton University Press, 2015), pp. 102–103.

B. *Why the respect-based argument for avoiding insouciance is paternalistic*

As I mentioned above, there are two possible interpretations of the argument presented in section A: one paternalistic and one non-paternalistic. It is possible to give a non-paternalistic account of the argument. On this account, Joe's moral worth is not constituted in his interests and well-being. Ben has a duty not to stand idly by, because he has a duty to relate to Joe in a particular way based on Joe's moral worth as something of non-interest-related value.<sup>52</sup>

This latter interpretation seems in line with Anderson's account of what constitutes a person's moral worth in the relevant context. For example, Anderson writes, 'every individual has a worth or dignity that is not conditional upon anyone's desires or preferences, not even the individual's own desires'.<sup>53</sup> Furthermore, Anderson is keen to avoid paternalistic appeals to people's interests and well-being. She points out that when we restrict a person's freedom with appeal to other people's obligation not to act in a way that disregards the moral worth of that person, we base our argument on 'what others are obligated to do rather than on the rights bearer's own subjective interests'.<sup>54</sup>

Specifically, the following may be argued:

1. If Ben interferes to prevent Joe from drinking the anti-freeze, then in doing so, Ben acts paternalistically if and only if Ben acts out of concern for Joe's interests.
2. It is possible that Ben interferes to prevent Joe from drinking the anti-freeze, and in doing so, Ben acts out of respect for the moral worth of Joe.
3. If Ben acts out of respect for the moral worth of Joe, then Ben does not act out of concern for Joe's interests.
4. Thus, it is possible that Ben interferes to prevent Joe from drinking the anti-freeze and in doing so Ben does not act paternalistically.<sup>55</sup>

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<sup>52</sup> For a relevant variant of this argument, see Bou-Habib, 'Compulsory Insurance', pp. 259–262.

<sup>53</sup> Anderson, 'What is the point', p. 319.

<sup>54</sup> Ibid.

<sup>55</sup> The same argument is presented in my PhD dissertation. See Viki Pedersen, *The Imprudence Trilemma: Sufficiency, Non-Paternalism, and Cost-Sensitivity* (Aarhus: Forlaget Politica, 2019), p. 40. The argument is inspired by Anderson's argument to the effect that it need not be paternalistic to disallow people to waive their right to be offered assistance, see Anderson, 'What is the point', p. 319, 329.

If sound, the argument shows that discharging the obligation not to stand idly by needs not involve paternalism.

In my view, the argument from section A is paternalistic. The most obvious reason why Ben seems to disregard the moral worth of Joe if he does not intervene arguably rests on Joe's interest in avoiding poisoning. Below, I will argue that the non-paternalistic interpretation of the argument is vulnerable to the objection that it fails to adequately reflect our ultimate considerations pertaining to the act of standing idly by when another person is about to act in a way that may irrevocably land him or her in an insufficient situation.<sup>56</sup> Arguably, the interests and well-being of the person interfered with is included in these considerations. To substantiate this view, imagine the following scenario:

Joe is about to drink anti-freeze. Jerry is about to drink detergent. They both act voluntarily. Both activities are dangerous, but imagine that drinking anti-freeze is significantly more dangerous than drinking detergent. In other words, Joe's best interests are significantly more threatened than Jerry's.

Do we have an equally strong reason to interfere with both activities? Arguably not. Intuitively, we seem to have strongest reasons to interfere with Joe. This suggests that the interests or well-being of the person interfered with is a salient justificatory factor in a satisfactory argument for interfering irrespective of the person's own judgement.

It might be objected here that the relevant factor is in fact not excluded by the non-paternalistic argument as the interests at stake graduate the relevant respect for a person's moral worth. For example, it seems to be less disrespectful not to interfere with a person who is about to lose his or her finger than not to interfere with a person who is about to lose his or her legs. I think this is a plausible view. If we disregard the moral worth of another person when we stand idly by in accordance with his or her will (as the argument in section A suggests), this plausibly bears on the person's interest in avoiding harm. However, anti-paternalists tell us not to consider it as a reason for interfering with people's autonomous decisions that such interference will promote their interests. When evaluating interfering policies, we should not give any weight to such reasons. For the same reason, it seems paternalistic to interfere

<sup>56</sup> See also Viki Pedersen, 'On the Anti-Paternalist Project of Reconciliation', *Utilitas* 31(1) (2019): pp. 20–37.

with a person's freedom to choose as he or she wishes in self-regarding matters from an interest-based concern for respecting the person's moral worth (cf. premise 1 in the argument).

Some might disagree with me that this would be paternalistic. It might be objected that even though respecting Y's moral worth and dignity does bear on Y's interests, it is possible for X to act out of respect of the moral worth of Y without thereby acting out of concern for Y's interests. Interference against the person's will might be non-paternalistically justified provided that one intends only to respect the moral worth of the person subjected to the interference (i.e. one does not intend to promote the person's interest; such promotion is just a foreseen side effect of the interference).

I will not try to refute this latter possibility. However, I suspect that the non-paternalistic argument then comes so close to paternalism that it is difficult to see why we should be particularly worried about paternalistic interferences. There seems to be little intuitive moral difference between having one's freedom restricted because others have a duty to respect one's moral worth, *which bears on one's best interests*, and having one's freedom restricted because this would promote one's interests. Those who are worried about paternalism could claim that it would be inappropriate to consider any of the rationales as reasons for interfering once an agent has made a self-regarding and autonomous decision.

Consider in this context that prominent anti-paternalists, such as John Stuart Mill and Joel Feinberg, who endorse the harm principle, would reject the non-paternalistic version of the argument. First, as Feinberg puts it, 'the Kantian argument that there is something in every man that is not his to alienate or dispose of, viz., the "humanity" that we are enjoined to "respect, whether in our own person or that of another"' is 'uncongenial' to Millian anti-paternalism.<sup>57</sup> Second, some accounts of paternalism do not only focus on interferences directed at the imprudent person's interests. For example, Seana Shiffrin's understanding of paternalism more broadly encompasses behavior directed at the person's 'own interests or matters that legitimately lie within [the person's] control'.<sup>58</sup> Shiffrin includes such behavior to her definition in order to reflect the sit-

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<sup>57</sup> Joel Feinberg, 'Legal Paternalism', *Canadian Journal of Philosophy* 1(1) (1971): pp. 105–124, p. 118.

<sup>58</sup> Shiffrin, 'Paternalism, Unconscionability Doctrine, and Accommodation', p. 218.

uations that ‘seem to involve the same sort of intrusion into and insult to a person’s range of agency’.<sup>59</sup> Interferences based on Anderson’s argument appear paternalistic on Shiffrin’s definition.

The upshot is that paternalistic considerations form integral parts of the most plausible version of the argument presented in section A. Thus, the section offers an expressive, respect-based and paternalistic reason for avoiding insouciance.

## VI. INSULTING EXPRESSIONS OF NON-PATERNALISTIC ARGUMENTS

So far, I have provided my main argument to the effect that avoiding paternalistic interference can be expressive of disrespect. Specifically, I have argued that we have significant respect-based paternalistic reasons to interfere when people are about to act in profoundly imprudent ways. Throughout I have granted that we also have certain respect-based reasons to avoid paternalistically justified interferences. As the above discussion shows, there are different ways in which one may avoid interfering with appeal to a paternalistic rationale. One is to avoid interfering. Another is to avoid the paternalistic rationale and interfere with appeal to a non-paternalistic rationale instead. Quite a few theorists, who have raised the disrespect objection to paternalism, have proposed the latter strategy.<sup>60</sup> Specifically, they have defended certain intrusive policies with appeal to non-paternalistic arguments (i.e., without appeal to the interests, good or well-being of the people interfered with). In this section, I will argue, however, that it is unclear that the non-paternalistic arguments that are introduced should be considered less expressive of disrespect than the alternative paternalistic argument for the relevant policies.

Take, for example, Anderson’s non-paternalistic argument for a compulsory health insurance scheme. Recall that according to Anderson, we all have an obligation to offer aid to our fellow citizens when their health needs are urgent, which justifies universal health insurance: ‘Since this is an obligation we all owe to our fellow citizens, everyone shall be taxed for this good, which we shall pro-

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<sup>59</sup> Ibid.

<sup>60</sup> See e.g. ‘Paternalism, Unconscionability Doctrine, and Accommodation’; Anderson ‘What is the point’; Bou-Habib, ‘Compulsory Insurance’.

vide to everyone. This is part of your rightful claim as an equal citizen'.<sup>61</sup> However, it seems possible to question that the justification of such a taxation scheme follows directly from the obligation to aid. After all, people could freely discharge this obligation without a tax scheme (involving the threat of legal sanctions if taxes are not payed). Accordingly, Anderson's non-paternalistic justification of compulsory health insurance also seems to involve a 'substitution of judgement'.<sup>62</sup> The agent who voices this argument substitutes his or her judgement that other people should discharge the obligation to pay through a legally enforced taxation scheme for the judgement of those who would prefer to comply with their duties in other ways.

Such 'substitution of judgement' makes the argument vulnerable to expressive worries. For example, one might say that Anderson's justification of compulsory health insurance is disrespectful as it expresses that people are too immoral to run their own lives in a way that makes them comply with their obligations to aid others.<sup>63</sup> Accordingly, both the paternalistic and non-paternalistic justification can be said to involve certain disrespectful expressions: the paternalistic rationale questions people's ability to make choices that are good for themselves, whereas Anderson's non-paternalistic rationale questions people's ability to make choices that are moral. It is far from clear that the latter should be considered less disrespectful. As Peter de Marneffe puts it:

There is no reason to agree, though, that the capacity to make judgments about what is best for oneself is more fundamental, and in any case erroneous judgments about what is best for oneself do not always betray a greater degree of practical incompetence. Thus the neglect of children in one's care ordinarily betrays a greater degree of practical incompetence than the decision to engage in some moderately self-destructive activity.<sup>64</sup>

Moreover, certain non-paternalistic arguments for interfering policies also seem to question people's abilities to make judgements about what is best for themselves. Hanna has directed this criticism at Shiffrin's non-paternalistic defense of the unconscionability doctrine. The unconscionability doctrine says that courts can refuse to enforce contracts that are extremely one-sided or unfair. The doctrine has been described as paternalistic as it deprives people of the opportunity to enter into certain binding contracts, apparently in

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<sup>61</sup> Anderson, 'What is the point', p. 330.

<sup>62</sup> Marneffe, 'Avoiding Paternalism', p. 79.

<sup>63</sup> I am indebted here to Kasper Lippert-Rasmussen.

<sup>64</sup> Marneffe, 'Avoiding Paternalism', pp. 79–80.

order to protect the disadvantaged party to the agreement. However, according to Shiffrin, the doctrine can be justified with appeal to a non-paternalistic rationale. The state may refuse to enforce certain agreements, not because it wants to protect the one who is disadvantaged by the contract, but because it does not want to help facilitate (and thus be complicit in the making of) binding unconscionable agreements. In illustration of her argument, Shiffrin asks us to consider the following ‘parallel case’:

[I]t would be paternalist for me to hide your cigarettes to protect your health. Nonetheless, it would not be paternalistic (and may be morally required) for me to refuse to buy you cigarettes [...] if my motive for refusal is that I think that *I* should not perform substantial actions that contribute to your addiction or illness.<sup>65</sup>

The argument is not paternalistic, as it does not appeal to the smoker’s interests or well-being, but to the potential facilitator’s interest in not contributing to the smoker’s imprudent behavior. However, as Hanna points out, the non-paternalistic rationale that Shiffrin identifies here also seems to express distrust in the smoker’s (or the contracting party’s) ability to make judgments about what is best for him- or herself.<sup>66</sup> The argument also seems to convey the message that ‘I know better than you, what would be the best for you to do’. Thus, as far as this message is concerned, there does not seem to be much expressive difference between introducing interfering policies with appeal to the paternalistic reason and Shiffrin’s non-paternalistic reason.

Needless to say, more should be said to establish that paternalism is often more respectful than its non-paternalistic alternatives. However, combining the article’s main argument with the arguments presented in this section there is no reason to think that avoiding paternalism is necessarily more respectful than not doing so.

## VII. CONCLUSION

It is widely acknowledged that paternalism can lead to good outcomes, for example, by saving people from tragic conditions caused by their risky choices. Still, one common objection to paternalism is

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<sup>65</sup> Shiffrin, ‘Paternalism, Unconscionability Doctrine, and Accommodation’, p. 224.

<sup>66</sup> Hanna, *In Our Best Interest*, p. 67.

that paternalistically justified acts and policies express a disrespectful message. This objection has been raised within the literature on paternalism as well as in the literature on relational egalitarianism. Identifying an overlooked and important way in which paternalism can be expressive of respect, the article shows that there need not be incompatibility between paternalism and respect. Specifically, it points to situations in which paternalistic interference is expressive of recognition of people's moral worth.

If I am right that paternalism can be respectful in this way, this has implications for the debate between paternalists and anti-paternalists (i.e., the discussion of how we should argue about policies interfering with people's freedom or autonomy). I do not here defend particular interfering policies. However, I hope to have demonstrated that a consideration for respect implies that certain paternalistic reasons in favor of interference should be included in the assessment of such policies. This seems particularly relevant in situations where interference is necessary to prevent (or significantly minimize the risk of) serious and irreversible self-harm.

Another important aim of this article is to contribute to our understanding as well as the development of relational egalitarianism by challenging Anderson's outspoken resistance against paternalism, which is closely intertwined with her relational view. As we have seen, paternalism can be expressive of respect. In addition, few if any deny that paternalistic acts and policies are expressive of care and concern for the intended beneficiary.<sup>67</sup> These points suggest that certain policies introduced with appeal to a paternalistic rationale are compatible with Anderson's credo of expressing equal respect and concern.

#### ACKNOWLEDGEMENTS

For helpful comments, I am grateful to participants in 'The Value of Health: New trends in public health and health equity research' at SDU, Odense, October 4–5 2018; participants in the 'Nordic Network in Political Theory' in Roskilde, October 25–27 2018; participants in the '5<sup>th</sup> Workshop on Political Equality and Voting' in Copenhagen, January 30–31 2000; and two anonymous referees for this journal. I thank Andreas Albertsen, Didde

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<sup>67</sup> See e.g. Fox, 'What's special about the insult of paternalism?'

Boisen Andersen, Kim Angell, Paul Bou-Habib, Andreas Christiansen, Göran Duus-Otterström, Kalle Grill, Sune Lægaard, Jakob Thrane Mainz, Grethe Netland, Lasse Nielsen, Tore Vincents Olsen, Jørn Sønderholm, and James Stacey Taylor. I would also like to thank Jakob Elster and Axel Gosseries for their critical commentaries. I am especially grateful to Søren Flinch Midtgård and Kasper Lippert-Rasmussen for helpful discussions and detailed written comments on various versions of this article.

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