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On the Possibility of Paternalism towards Future People

ABSTRACT This article argues that it is possible to act paternalistically towards future people, as long as the following requirements are met: (1) the act/choice is not such that it will prevent the being from becoming an autonomous individual; (2) the act/choice is such that it can be left to the future person herself without any disadvantage to her; and (3) the act/choice is not such that there is significant uncertainty at the time of choice about the preferences of the future person. In the last part of the article, I argue that the possibility of acting paternalistically towards future people is of practical as well as theoretical importance, since some of the policies we might choose to pursue on behalf of future people are paternalistic, in particular constitutional policies implemented because we do not trust future people to choose wisely. I end the paper by pointing out why it is valuable to approach intergenerational issues both through the paternalistic prism and through the prism of theories of justice.

I. Introduction

Although intergenerational justice have been widely discussed in recent decades,¹ these debates have focused on questions such as: How are intergenerational obligations different from obligations to contemporary people? Do future people have rights? How much do we owe future people? (Meyer, 2016). However, the question of whether it is possible to act paternalistically towards future people has not been pursued in these debates.² This is surprising, as an affirmative answer to this question

¹ See, for instance, Sikora and Barry (1978), Parfit (1984), Arrhenius (2000), Gosseries and Meyer (2009).

² Zwarthoed (2016) discusses, though, a tangential issue when she considers whether the present generation should preserve plants, animals and other organisms for future people. Whereas she discusses the conditions for future people's autonomy, I discuss whether future people can be treated paternalistically.

might change our obligations to future generations. If we can act paternalistically towards future people, it might be the case that we ought, from a perspective of intergenerational justice, to abstain from acting in such a way, at least in some situations.³

To be fair, Boonin (2014) does mention, *en passant*, whether it is possible to act paternalistically towards future people. He says the following in his discussion of the non-identity problem, as exemplified by a case in which Wilma is debating whether or not to conceive a child, Pebbles: “At the time that Wilma conceives Pebbles, after all, Pebbles does not exist and so there is no one who is being treated paternalistically by Wilma when Wilma does what she does” (Boonin, 2014: 100). Although he does not discuss it further, Boonin’s view clearly is that it is impossible to act paternalistically towards future people. Boonin’s view is attractive for good reason; after all, we normally think of paternalism as done towards autonomous individuals who should be able to decide for themselves and, as such, questions of paternalism towards future people do not naturally seem to arise. This seems obvious since future people are not yet autonomous individuals (and might never be).

It seems fair to claim, then, that most people have either thought that it is not possible to act paternalistically towards future people or have simply not considered the possibility that it might be. In this article, I will argue that one can be treated paternalistically independently of whether one exists at the moment the paternalistic act is conducted, as long as the following requirements are met:

- (1) The act/choice needs not be such that it will prevent the being from becoming an autonomous individual
- (2) The act/choice needs to be such that it can be left to the future person herself without any disadvantage to her

³ Suppose there is “no reason to attribute fundamental moral importance to someone’s location in time. A person’s place in time is not, in itself, the right kind of feature of a person to affect his/her entitlements” (Caney, 2014: 324). If this is true, we might infer that to the extent that it is wrong to act paternalistically towards contemporary people, it is wrong to act paternalistically towards future people.

- (3) The act/choice needs not be such that there is significant uncertainty at the time of choice about the preferences of the future person

That it is possible to act paternalistically towards future people is not just interesting on a conceptual level. As will be argued in the last part of the article, it is actually possible for contemporary people to pursue policies that are paternalistic towards future people, such as constitutional policies requiring a super majority for reform. As this is the case, the range of policies that contemporary people are *pro tanto* morally justified in pursuing is smaller than expected and we might have an intergenerational obligation not to pursue some of these policies all things considered.

The article is structured as follows. The next section (II) defines the terms ‘future people’ and ‘paternalism’. Following that, I present the argument for why it is possible to act paternalistically towards future people (section III). In Section IV, I discuss the wrongness of paternalism targeted at future people distinguishing between (1) non-paternalistic constitutional policies; (2) paternalistic constitutional policies that are not wrong all-things considered; (3) paternalistic constitutional policies that are wrong all-things considered. I do the equivalent with non-constitutional policies. In this way, I systematize when it is justifiable, and when it is not, to pursue policies that are paternalistic towards future people. The article concludes (section V), that, as it is possible for contemporary people to pursue policies that treat future people paternalistically, the considerations we need to take into account when we act towards future generations are broader than usually expected. I briefly consider which difference it makes to approach intergenerational issues through the paternalistic prism as opposed to the prism of theories of justice.

II. Defining Future People and Paternalism

When discussing future people, it is common to distinguish between *actual people* and *merely possible people*. The former are people who exist in the actual history of the world, whether in the past, present or future,⁴ whereas the latter are those who could have existed but in fact never will (Holtug, 2001: 362; Parfit, 1984: 489). One might believe that it makes a difference, morally speaking, that actual people come into existence, whereas merely possible people only might have come into existence. Thus, we can now ask whether one can act paternalistically towards actual people and/or merely possible people? If we found, for instance, that one can act paternalistically towards actual people, it would not necessarily follow that one can act paternalistically towards merely possible people as well, since it might make a difference, paternalistically speaking, whether or not the person will exist at some point in time. I argue that whereas it is possible to act paternalistically towards actual people, it is not possible to act paternalistically towards merely possible people.

Now to defining paternalism. My main purpose in this paper is not to discuss how to define paternalism⁵ but instead to argue that it is possible to act paternalistically towards future people. For this purpose, I employ Shiffrin's (2000) motive-based account of paternalism, where paternalism by A towards B is characterized as behaviour (whether through action or through omission):

- (a) aimed to have (or to avoid) an effect on B or her sphere of legitimate agency⁶
- (b) that involves the substitution of A's judgment or agency for B's

⁴ In this paper, I obviously only focus on actual people that exist in the future.

⁵ For discussion on how to define paternalism, see Grill (2009: 5-15) and Scoccia (2018).

⁶ Because paternalism is mostly discussed in relation to cases where the paternalised *is* autonomous at the time of the act, most definitions are underspecified in terms of when the paternalised must be autonomous for the act to be paternalistic. This is true of Shiffrin's definition as well, as is evident in condition (a) and (c). It is unclear whether we should read (a) and (c) as saying that the paternalised must be autonomous now, or must have legitimate control now (narrow reading), or whether it is sufficient for an act to be paternalistic that the paternalised becomes autonomous at some future point or acquires legitimate control later (wide reading). These two – autonomy and legitimate control – can diverge. This is true of cases in which I act so that a presently autonomous person is affected in the future in an area in which she then, but not now, has legitimate control. For instance, I introduce safety features in a machine that I believe you will later acquire. You have no legitimate control over the machine presently, you have no preferences regarding it either, but you will later resent that I introduced these features. I believe that acts that satisfy the wide reading are paternalistic as well, as I will argue in the next section. I would like to thank an anonymous reviewer for discussion on this.

- (c) directed at B's own interests or matters that legitimately lie within B's control
- (d) undertaken on the grounds that compared to B's judgment or agency with respect to those interests or other matters, A regards her judgment or agency to be, in some respect, superior to B's (Shiffrin, 2000: 218)^{7 8}

As Begon (2016) notes, this account, and like-minded motivational accounts of paternalism,⁹ focuses not only on the nature of the choice interfered with (what the paternalised wants to do) but on the motive of the paternaliser,¹⁰ identifying paternalist acts “on the basis of the uniquely insulting negative judgment that is taken to motivate all instances of paternalism” (Begon, 2016: 360). I am aware that this definition of paternalism is not without its potentially weak spots. For one, Shiffrin's account seems overinclusive, since she denies that paternalism must aim to promote the interests of the person interfered with (de Marneffe, 2006: 74, n. 17; Scoccia, 2018: 17).¹¹ But this is not a problem for the purpose of this paper, since, first, no definition of paternalism is without its potentially weak spots (at least not yet), and, second, my argument also applies to other definitions of paternalism that are different from Shiffrin's.¹²

III. Acting Paternalistically towards Future People

⁷ This definition entails that it is possible to act paternalistically towards an agent who has not even considered the matter the paternaliser intervenes in, or established an intention (Shiffrin, 2000: 214).

⁸ Shiffrin notes that her account does not, by definition, imply that paternalism is necessarily all-things-considered wrong. She continues: “It may follow from the account's appeal to matters legitimately within an agent's control that paternalism, so understood, is *pro tanto* morally problematic (Shiffrin, 2000: 220, n. 25).

⁹ For another motivational account of paternalism, see Quong (2010).

¹⁰ Throughout the article, I take ‘paternalised’ to mean the person that is acted paternalistically towards, whereas I take ‘paternaliser’ to mean the person acting paternalistically.

¹¹ De Marneffe (2006) argues that there is a tension in Shiffrin's position. On the one hand, Shiffrin's account is motivational which means that belief or intent is sufficient for an act to be paternalistic. On the other hand, she assumes that the (actual) presence of non-paternalistic justifications renders otherwise objectionable paternalistic actions non-objectionable (p. 71). On de Marneffe's account sharing similar problems, see Grill (2015).

¹² My argument, that it is possible to act paternalistically towards future people, applies, e.g., to Dworkin's definition of paternalism as well, see footnote 21.

In this section, I will argue that it is possible to act paternalistically towards future people when the following requirements are met:

- (1) The act/choice needs not be such that it will prevent the being from becoming an autonomous individual
- (2) The act/choice needs to be such that it can be left to the future person herself without any disadvantage to her
- (3) The act/choice needs not be such that there is significant uncertainty at the time of choice about the preferences of the future person¹³

In what follows, I will discuss condition (1), (2) and (3) to explain why I believe they are necessary and jointly sufficient for the possibility of acting paternalistically towards future people. Furthermore, I will discuss how often we can expect these conditions to be met in order to delineate the scope of my argument.

Starting with (1), that the act needs not be such that it will prevent the being from becoming an autonomous individual, consider the following example:

John and Jane: John and Jane are considering aborting Jane's pregnancy. She is five weeks pregnant, carrying a foetus that has not yet developed into a person. As Jane recently read David Benatar's book 'Better Never to Have Been', she is convinced that it would be harmful for their future child to come into existence due to the uncertainties pertaining to life on Earth, such as global warming, risk of war and the risk of air-borne diseases; she believes that it would be harmful for her future child to be born. Hence, John and Jane decide to abort the foetus. Assume, moreover, that

¹³ I would like to thank an anonymous reviewer for discussion on these requirements.

whether or not they opt for an abortion, they believe their lifetime welfare will be the same.

I believe most people would intuitively say that John and Jane are not acting paternalistically towards the foetus, as it will never come to exist because it is aborted – and how can one act paternalistically towards an entity that will never come into existence? To understand why this is the case, it is useful to introduce a distinction by Fischer (1995) between hard facts (temporally nonrelational) and soft facts (temporally relational):

Intuitively, a hard fact, as opposed to a soft fact, is ‘fully accomplished and over-and-done-with’ at the relevant time. The temporal relationality of soft facts is analogous to the spatial relationality of facts such as the fact that I am sitting a mile away from an orange grove ... a soft fact (as opposed to a hard fact) entails that a certain kind of fact obtains in the future (or after the time the fact is allegedly about) (Fischer, 1995: 112).

Citing an example, Fischer says that it is a hard fact about seven that his alarm clock rang at seven this morning. In contrast, however, ‘the fact that the alarm clock rang two hours prior to my typing is a soft fact about seven’ (Fischer, 1995: 112) in the sense that it implies that certain sorts of facts, namely that he is writing two hours later, occur after seven o’clock.

We are now in place to say that acting paternalistically towards future people is a *soft fact*. That is to say, if we try to act paternalistically towards a future person, it is necessary for the act to be paternalistic that ‘a certain kind of fact obtains in the future’, namely that the foetus (or whatever entity we are acting towards) develops into an autonomous agent at a future point in time.¹⁴ If the

¹⁴ Cp. ‘the establishment of the American republic occurred with the Declaration of Independence even if there never would have been a republic if the Americans had lost the War of Independence’.

foetus does not develop into a person, there is no agent whose legitimate sphere of agency will be violated by the act. This is true in the John and Jane case: the foetus never develops into an autonomous agent and condition (a) in Shiffrin's definition – the act is aimed to have an effect on B or her sphere of legitimate agency – is thus not satisfied. Thus, since paternalism is only possible towards beings that are able to judge autonomously at some point, it is a necessary condition for an act to be paternalistic towards a future person that the act does not prevent the being from becoming an autonomous individual.¹⁵

It is useful to reflect on whether this condition will often be met, as this can tell us something about the scope of the argument. Of the three requirements, this is the one that we can expect to be satisfied most often. Of course, it is not satisfied in cases like *John and Jane* in which the person will never come into existence because of the choice, but it can e.g. be satisfied when we act toward a foetus with the aim of affecting the future person that the foetus will develop into. Consider:

Religious Mother Mary: Suppose that a deeply religious woman, Mary, is carrying a six-week-old foetus.¹⁶ Her religious beliefs make her abstain from consuming alcohol. However, she believes that red wine would lower her stress levels, which would be good for the future person the foetus will develop into. Recently, she read a study concluding that 100 percent of children of deeply religious parents come to hold the same religious beliefs as their parents,¹⁷ and so she has good reason to believe that the

¹⁵ Note that as we can describe (some) future people as people who are not yet autonomous, we can likewise describe (some) children as people who are not yet autonomous. In that sense, my argument applies to future people and children alike. For a discussion of childhood and moral status, see Gheaus et. al. (2018). For a discussion of paternalism towards children, including when it is justifiable, see Mullin (2014).

¹⁶ I have stipulated the case such that the foetus is six weeks old in order to show that the entity involved in this case is not yet a person. If one believes, instead, that a six-week-old foetus is already a person, one could just assume that the foetus in this case is one or two weeks old instead.

¹⁷ Note that less than 100 per cent will do as well. Usually when we ask a person what she wants, there are uncertainties as to whether the person has understood the question correctly or responds honestly; that is, even in such a case we are not 100 per cent sure about what the person wants.

person¹⁸ that the foetus will develop into will share her religious beliefs; that is, that the person would later prefer that she had not consumed the alcohol. Regardless of this, Mary decides to consume the red wine.¹⁹

This case satisfies condition (1), as Mary's act of drinking the red wine does not hinder that the foetus can turn into an autonomous individual in the future. As a general matter, we can expect this condition to be satisfied in choices in which the paternaliser tries to affect the paternalised at a later point in time when the paternalised has become autonomous. As this is a future interference – one that takes place once the paternalised has developed into an autonomous individual – it cannot prevent the paternalised from becoming autonomous.

To understand why (2), i.e. that the act/choice needs to be such that it can be left to the future person herself without any disadvantage to her, is necessary, we need to distinguish *judgment anteriority* from *judgment superiority*.²⁰ Judgment anteriority refers to cases where we need to decide today, e.g. whether to invest in x or y, both of them affecting future people and both being mutually incompatible. Future people are not here to decide whether we should do x or y, but we need to decide now. By deciding today, we are not doing anything insulting to future people. Action on climate change is an example of judgment anteriority, in the sense that we have to decide now. We cannot leave the choice to future persons without disadvantaging them, but the reason we decide now is not because we believe our decisional capacity is superior to theirs but is merely a matter of the consequences of not deciding now. This contrasts with judgment superiority, in which we, contemporary people, believe that we know better than future people and think it is better for future people if they are con-

¹⁸ Assuming that only one person will develop from the foetus.

¹⁹ Note that this is not a 'non identity case' in which the future person's existence is dependent on Mary drinking the red wine. If it was a 'non-identity case' it seems fair to assume that the future person might have preferred, all things considered, that Mary consumed the red wine. For discussion on non-identity cases, see Parfit (1984), chapter 16.

²⁰ I would like to thank an anonymous reviewer for suggesting this distinction.

strained by us, e.g. in the case of constitutional rigidity (I discuss this in section IV). Thus, acts involving judgment superiority satisfy condition (d) in Shiffrin's definition, i.e. the act/behaviour is 'undertaken on the grounds that compared to B's judgment or agency with respect to those interests or other matters, A regards her judgment or agency to be, in some respect, superior to B's', but cases of judgment anteriority do not. Consider the following case:

Military Conscription: Lola is a 30-year-old patriot who believes that a necessary part of a good life is to do military service. Immediately after having found out that she is pregnant, she signs her future child (let us call this person Kim) up for military conscription such that when Kim turns 19, she/he has to enrol in the military for 12 months (without the possibility of opting out). Lola believes that Kim will learn a lot from the discipline taught in the military and is afraid that if Kim gets to decide for her-/himself, she/he will decide to do something else, e.g. travel for 12 months.²¹

This case involves judgment superiority – Lola believes her judgment is superior to Kim's – and it is a choice that can be left to the future person herself without any disadvantage to her. It is not true that Kim will be worse off in the future unless Lola decides on her behalf now – if she wants to join the military at 19 years old, she still has the possibility to do so.

How often can we expect condition (2) to be satisfied? Many decisions with regard to future people will not satisfy (2), as is true of decisions where a choice needs to be made now. This is true, as we saw, with early action in the case of climate change. It is also the case with savings for future generations – we cannot wait and let future people decide whether we should save for them. We need

²¹ Note that Lola acts paternalistically on Dworkin's definition of paternalism. According to Dworkin, *A* acts paternalistically towards *B* by doing (omitting) *Z* if and only if: (i) *Z* (or its omission) interferes with the liberty or autonomy of *B*; (ii) *A* does so without the consent of *B*; (iii) *A* does so only because *A* believes *Z* will improve the welfare of *B* (where this includes preventing his welfare from diminishing), or in some way promote the interests, values or good of *B* (Dworkin, 2017). Lola (i) interferes with the autonomy of Kim by forcing her to do military service; (ii) does so without Kim's consent; and (iii) signs Kim up for military service only because she believes it will improve Kim's welfare.

to keep this in mind, as it shows us that in many types of cases, we do not have to worry about paternalism towards future people. This fact does not change, however, the main point of this paper, i.e., that it is possible to act paternalistically towards future people. That some choices with regard to future people satisfy (2) is sufficient, and this is true of the Military Conscription case, as we have just seen. It is furthermore true in some cases of constitutional rigidity – in particular in cases which involves judgment superiority from contemporary people (I will return to this in section IV where I discuss whether such paternalistic constitutional policies are justifiable all things considered).

Let us lastly consider the third requirement, namely the act/choice needs *not be such* that there is significant uncertainty at the time of choice about the preferences of the future person. Adaptive preferences are a complicated fact in this regard: often the course of action we select will influence the future person's preference.²² As Elster (1983) explains: "Adaptive preference formation is the adjustment of wants to possibilities – not the deliberate adaptation favoured by character planners, but a causal process occurring non-consciously. Behind this adaptation there is the drive to reduce the tension or frustration that one feels in having wants that one cannot possibly satisfy" (p. 25). An example is the contented slave who does not want freedom, and we can expect something similar with regard to future people, i.e. that future people will adjust their preferences according to the opportunities they have been given by previous generations (Page, 2007: 455). What is more, the further we go into the future, the more uncertainty about the preferences of future people, since their living circumstances are likely to be significantly different from ours. This limits significantly the amount of choices that satisfies (3). However, we can still imagine acts toward future people that satisfy this requirement, as we have already seen in the cases discussed previously. In *Military Conscription*, there is not significant uncertainty about Kim's preferences when Lola makes her decision, in the sense that we can expect Kim to prefer to be able to choose herself whether or not to do military

²² I would like to thank an anonymous reviewer for this suggestion.

service (remember that this choice can be left to Kim without any disadvantage to her). The same is true in *Religious Mother Mary* in which Mary knows what the future person her foetus will develop into prefers. As a general matter, we can expect this condition to be satisfied in cases in which the choice can be left to the future person herself without any disadvantage to her, given the expectation that a future person will prefer to choose for herself, all else being equal. To exemplify, suppose a contemporary polity decides to sign up every future male person to an organ donation scheme in which each and every future male of the polity is obliged, upon his death, to donate all his vital organs. Assuming that whether or not to donate vital organs upon one's death is a decision that it is up for the person himself to decide, we can expect the person to prefer to be able to make this choice by himself.²³ For this reason, there is not significant uncertainty at the time of choice about the preferences of the future person. To sum up, whereas we can expect condition (1) to be satisfied oftentimes, conditions (2) and (3) limit significantly the amount of cases in which it is possible to act paternalistically towards future people.

Having discussed the three conditions, it seems apt to show that it is possible to act paternalistically towards future people on Shiffrin's definition of paternalism once these conditions are met. I do so by focusing on the *Military Conscription* case.²⁴ Following Shiffrin's criteria, it is clear that Lola aims to have an effect on Kim or her legitimate sphere of agency,²⁵ in that Kim has to spend one year of her adult life on something Lola believes is good for him/her. It is likewise the case that Lola substitutes her judgment for that of Kim; instead of letting Kim decide whether he/she wants to enrol him-/herself in the military when turning 19 years old, Lola decides to enrol Kim before he/she has

²³ I set aside the problem of cognitive biases in this example and assume that the future person is aware of this risk. For a detailed introduction to and discussion of cognitive biases, see Thaler and Sunstein (2009).

²⁴ To be clear, since *Military Conscription* satisfies (1), (2) and (3). With regard to (1), that Lola signs Kim up for military service does not prevent Kim from becoming autonomous. We have already seen that (2) and (3) are satisfied.

²⁵ As Shiffrin notes, her account is underspecified: "given (c) a full account of paternalism will depend on an account of what sorts of interests and matters legitimately lie within an agent's control" (Shiffrin, 2000: 218). For the purposes of this paper, I will not give a complete account of which matters legitimately lie within an agent's control, but assume that whether or not Lola should do military service once she turns 19 is for her, and not her mother, to decide.

an opinion on the matter.²⁶ Lola's decision to enrol Kim is directed at Kim's interests or matters that legitimately lie within Kim's control. As long as military conscription is voluntary (and not a demand from the state), it seems obvious that whether or not to enrol in the military is a matter that legitimately lie within Kim's control. Hence, the third condition is satisfied. Lastly, Lola believes that her judgment is superior to Kim's in that she fears that when Kim comes of age, she/he will decide to go travelling instead of signing up to military conscription. The upshot is that Lola is acting paternalistically towards the future person, Kim, by forcing him/her to go to the military for a year after turning 19. Hence, as Kim is a future person, Lola is acting paternalistically towards a future person. The upshot is that it *is* possible to act paternalistically towards future people.

Suppose that instead of Kim growing up and turning 19, she is stillborn. In that case, does Lola act paternalistically by signing Kim up to military service? As I have argued, it is a soft fact when a paternaliser acts paternalistically towards a future person. That means that for such an act to be paternalistic, a 'certain kind of fact must obtain in the future', namely that the paternalised develops into an autonomous agent. We can thus distinguish between acting with potentially paternalistic consequences and acting with actually paternalistic consequences²⁷ and say that in the case where Kim is stillborn, Lola is acting with potentially paternalistic consequences, whereas she acts with actually paternalistic consequences in the case where Kim turns 19 and has to enrol in military service.

²⁶ Note that this is an example of a case (like Shiffrin's credit card example) in which one behaves paternalistically by acting "before an agent has considered a matter or established an intention" (Shiffrin, 2000: 214).

²⁷ My main argument – that it is possible to act paternalistically towards future people – does not commit me to a particular view of whether it is as wrong to act with potentially paternalistic consequences, as it is to act with actually paternalistic consequences. I do not want to commit to a particular answer in this paper, but I do want to note that we can compare acting with actually paternalistic consequences/potentially paternalistic consequences to murder/attempted murder. For those who believe that attempted murder is as morally wrong as murder, it is as morally wrong to act with potentially paternalistic consequences as it is to act with actually paternalistic consequences. For those who believe that there is a moral difference between murder and attempted murder, this is not the case. This is furthermore to say that there is a link to the debate between actualism and expectism – whether actual or expected outcomes determine the moral status of actions. I would like to thank an anonymous reviewer for discussion on this.

It is even possible, I will now argue, to act paternalistically towards future people in cases that are not targeted at a foetus or a particular future person. To see that this is true, consider the following:

Collective Military Conscription: Suppose that a contemporary polity decide to implement a policy in which any person born after January 1st 2025 will, upon his/her 19th birthday, be enrolled in the military for 12 months. It is not that the polity need people for military conscription (they have sufficient military personnel), but they believe it will strengthen the character of each and every future member of the community that they obtain one year of military discipline. They worry that future people will decide against military conscription if they are able to decide for themselves.

The previous military conscription case and this one differ in that whereas the first concerns a single individual, this case involves *all* individuals born in the polity after January 1st 2025. There is no reason to say, though, that the contemporary members of the polity do not act paternalistically towards these future members of the polity. With regard to each and every future member of the polity, it is true that the polity (a) aim to have an effect on his/her sphere of legitimate agency; (b) substitute their judgment, that the person will benefit from military conscription, from the judgment of each and every future person; (c) decide on matters that lie within the particular individual's control, i.e., whether to join the military or do something else; and (d) judge their judgment to be superior to that of each and every future person's in the polity', i.e., the polity worry that each and every future person will make the wrong decision by choosing not to join the military. Note that in this example the future people are *types* and not *tokens*. Following Kumar, types

are simply normatively significant sets of characteristics, whose instantiation may be found in actual, substantial, individuals, and in the actual situations in which individuals find themselves. An individual, for instance, is a token of the basic type ‘person’ insofar as those facts that are picked out by the type description ‘person’ are true of her (Kumar, 2003: 111).

In Collective Military Conscription, the polity do not know the token identity of the future people they act paternalistically towards (to illustrate, they do not know which particular individuals will fill the empty slots of persons in the future), although they know the type identity, namely future people to be born inside this polity after January 1st 2025. The only way in which the polity’s decision would not be paternalistic is if no future person in the polity would grow up to be an autonomous agent, analogous to the difference between the *Military Conscription* case and the *John and Jane* case. The upshot is that we can act paternalistically towards future people even without knowing their token identity.

To summarize, I have argued that to act paternalistically towards future people requires that (1) the act/choice is not such that it will prevent the being from becoming an autonomous individual; (2) the act/choice is such that it can be left to the future person herself without any disadvantage to her; and (3) the act/choice is not such that there is significant uncertainty at the time of choice about the preferences of the future person. We have seen that the *Military Conscription* case satisfies these conditions and I thus conclude that it *is* possible to act paternalistically towards future people – even without knowing the token identity of the future person.

IV. Constitutional Rigidity, Paternalism and Future People

At this point, one might acknowledge it is possible to act paternalistically towards future people on a conceptual level, and that this is of theoretical interest. However, that it is conceptually interesting

does not (necessarily) make it interesting to the real world of politics. In this section, I will argue that constitutional policies²⁸ definitely can be paternalistic towards future people and this fact does matter from a point of view of real world politics.²⁹ But (1) not any constitutional policy is paternalistic; (2) some constitutional policies are paternalistic but not wrong all-things considered; and (3) still some are paternalistic and wrong all-things considered. Further, we can imagine other future-constraining decisions that (4) are non-paternalistic; (5) are paternalistic but not wrong all-things considered; and (6) are paternalistic and wrong all-things considered. I discuss typical examples of (1)-(6) in the following.

We can imagine constitutional policies that are non-paternalistic. What is characteristic of a non-paternalistic constitutional policy (see 1 in table 1) is that the current generation (G1) implements it without making a judgment about future people's decisional capacity. One example is when G1 makes a constitutional change that limits some policy options on behalf of their *own* inability to choose wisely. This is a case of self-binding, and as it is not pursued on behalf of future people's inability to choose wisely, it is a non-paternalistic constitutional policy. We can also imagine policies other than constitutional policies which are non-paternalistic (see 4 in table 1). A typical case of this sort is what I referred to as *judgment anteriority* earlier, i.e. cases where the current generation needs to decide today, as is true, e.g., with early action on climate change. The reason this is not paternalistic is, as we discussed earlier, that the current generation does not believe that its decisional capacity is superior to that of future people's. It is merely because a decision needs to be made now. Turning to cases of constitutional rigidity that are paternalistic but not wrong all-things considered (2 in table 1), a typical feature of these is that they aim to protect some future people from other future people. We

²⁸ In the discussion that follows, I take constitutional policies to mean policies that require a significant majority (e.g., three-fourths of parliament) to be amended. Elster calls constitutional policies a Ulysses strategy as contemporary people 'precommit later generations' (Elster, 1979: 94).

²⁹ Cp. Gosseries (2008): "... the more we rely on constitutions – as opposed to less rigid legal instruments – the more we *threaten* the generational sovereignty of future generations" (Gosseries, 2008: 32).

can imagine a case in which G1 makes a constitutional policy in order to guarantee that G3 authorities treat G3 people fairly, e.g., minorities (Gosseries, 2014: 538), as G1 believes that G3 authorities will misuse the decisional freedom. This policy is paternalistic on Shiffrin's account of paternalism. First, G1 aims to have an effect on G3 or their legitimate sphere of agency by making some choices unavailable for G3 to pursue. Such a limitation in G3's ability to pursue some policies seems to involve substitution of G1's judgment for G3's, and insofar as it concerns decisions that G3 otherwise are in a position to make (e.g. which institutional setup they want), G1 directs the action at matters that legitimately lie within G3's control. Lastly, G1 undertakes it on the grounds that compared to G3, G1's agency is superior, as G1 believe G3 will choose unwisely and treat some members of G3 unfairly. Such a constitutional policy is paternalistic, but at the same time, it does not seem wrong all-things considered.³⁰

Another example of a paternalistic constitutional policy that is not wrong all-things considered is one that protects the very institution of democracy in the future. Even if such a policy is implemented by G1 because it does not believe future generations will secure democratic institutions by themselves, it still seems that the policy is not wrong all-things considered, inasmuch as democratic institutions is a necessary condition for future people's autonomy.

Other future-constraining decisions that are paternalistic but not wrong all-things considered are equivalent to constitutional policies that are paternalistic but not wrong all-things considered in the sense that they aim at securing justice for future generations (both intra- and intergenerational). As an example, we can imagine that G1 implements an inheritance tax of 100 percent to try to hinder, luck egalitarian justice-style,³¹ that some children in G3 will be worse off than other children in G3

³⁰ I take it that the same is true of paternalistic policies aimed at presently autonomous individuals. That is, even if such a policy, e.g. a seat belt law, is paternalistic and for this reason *pro tanto* wrong, it is not (at least most people do not believe it to be) wrong all-things considered.

³¹ Luck egalitarians affirm the claim "it is unjust if some people are worse off than others through their bad luck" (Lippert-Rasmussen, 2016: 1). For a thorough discussion of luck egalitarianism, see Lippert-Rasmussen (2016).

through their bad luck in not having parents they can inherit a significant amount of money from. As G1 fears that if it leaves the choice to G2, G2 will not implement this policy (or a similar policy that can bring them closer to luck egalitarian justice), this seems to be a future-constraining decision that is paternalistic, but it does not seem wrong all-things considered as the purpose of the policy is to secure intra- and intergenerational justice.

Turning lastly to constitutional policies that are both paternalistic and wrong all-things considered, the central features of these are judgment superiority and illegitimate interference. Such constitutional policies involve judgment superiority because G1 believes that the future generation, say G3, will not choose wisely. They also involve illegitimate interference, in the sense that it is a decision that can be left for G3 to decide without any disadvantages to G3 – it is a decision that for this reason legitimately lies within G3’s control. These features – that G1 believes their judgment to be superior and makes a decision that it is not up for them to decide – make the constitutional policy wrong all-things considered. These differ from the type of policies in 2, in the sense that the aim of the policies in 2 is to secure justice; the policies in 3 have no such aim but are merely evidence of G1’s desire to dominate G3. What is true of policies of type 3 is also true of policies of type 6 – the only difference is that policies of type 6 are non-constitutional, an example being *Collective Military Conscription*.

Table 1:

	Constitutional rigidity	Other future-constraining decisions
Non-paternalistic	1 - G1 makes a constitutional change that limits some policy options on behalf of their <i>own</i> inability to choose wisely (self-binding) - Guaranteeing that G2 & G3 operate under the procedural constraints required for self-government (Gosseries, 2014: 538)	4 - Judgment anteriority, e.g., pursuing a climate policy because someone needs to decide today
Paternalistic but not wrong all-things considered	2	5

	<ul style="list-style-type: none"> - G1 implements forward rigidity to protect (benefit) G3 from G2 (Gosseries, 2014: 537) - Guaranteeing that G3 authorities treat G3 people fairly (e.g., minorities) (Gosseries, 2014: 538) - Securing democratic institutions in the future 	<ul style="list-style-type: none"> - G1 implements a policy to secure intra- and intergenerational justice (in this area) for future generations
Paternalistic and wrong all-things considered	<p>3</p> <ul style="list-style-type: none"> - Constitutional policies implemented by G1 because they do not trust future generations to choose wisely (limiting the options they can choose from) 	<p>6</p> <ul style="list-style-type: none"> - Judgment superiority in cases where G1 does not have to make a decision now (e.g. Collective Military conscription)

V. Conclusion

In this paper, I have argued that it is possible to act paternalistically towards future people. For an act towards a future person to be paternalistic requires that (1) the act/choice is not such that it will prevent the being from becoming an autonomous individual; (2) the act/choice is such that it can be left to the future person herself without any disadvantage to her; and (3) the act/choice is not such that there is significant uncertainty at the time of choice about the preferences of the future person.

Let me end this paper by a short reflection on the following question: What is the value of approaching intergenerational issues through the paternalistic prism as opposed to the prism of theories of justice? I believe that we do not have to choose between them – it is fruitful to approach intergenerational issues both through the paternalistic prism and through the justice prism, as each prism is able to bring a valuable perspective to intergenerational issues. For instance, suppose that our theory of justice tells us that future people need to be as well off, resource-wise, as we (contemporary people) are. In that case, there is intergenerational justice insofar as contemporary people and future people have equal resource bundles. This is compatible with their being other morally relevant differences between contemporary people and future people. Suppose that a group of contemporary

people treat no contemporary people paternalistically, whereas they treat many future people paternalistically although there are no moral differences between the two groups of people. This is an intergenerational issue that we cannot identify through the justice prism - at least not on (most) distributive views of justice – but which we can identify on the paternalistic prism. Conversely, if we only look through the paternalistic prism, some intergenerational issues will be unidentifiable. This is evident by the fact that it is possible to wrong future people in other ways than by acting paternalistically towards them, e.g. by leaving insufficient natural resources for future people to be able to live a decent life. The upshot is that my argument – that it is possible to act paternalistically towards future people – shows us that we cannot look past the issue of paternalism when we consider how we can act towards future generations. After all, we seem to have further intergenerational obligations than has so far been acknowledged.

References

- Arrhenius, G (2000) *Future Generations: A Challenge for Moral Theory*, F.D. Diss., Uppsala: University Printers.
- Begon, J (2016) *Paternalism, Analysis*, 76, 3: 355-373.
- Boonin, D (2014). *The Non-Identity Problem & the Ethics of Future People*, New York: Oxford University Press.
- Caney, S (2014) *Climate change, intergenerational equity and the social discount rate*, *Politics, Philosophy & Economics*, 13(4): 320-342.
- De Marneffe, P (2006) *Avoiding paternalism*. *Philosophy & Public Affairs* 34, 1: 68-94.
- Dworkin, G (2017) 'Paternalism', *The Stanford Encyclopedia of Philosophy* (Spring 2017 Edition), Edward N. Zalta (ed.).
- Elster, J (1979) *Ulysses and the Sirens*. Cambridge: Cambridge University Press.
- Elster, J (1983) *Sour Grapes: Studies in the Subversion of Rationality*. Cambridge University Press.
- Fischer, J M (1995) *The Metaphysics of Free Will*. Oxford & Cambridge: Blackwell.
- Gheaus, Anca et. al. (eds.) (2018) *The Routledge Handbook of the Philosophy of Childhood and Children*. Routledge.
- Gosseries, A (2008) *Constitutions and Future Generations*, *The Good Society*, 17, 2: 32-37.
- Gosseries, A and Meyer LH (eds.) (2009) *Intergenerational Justice*, Oxford: Oxford University Press.
- Grill, K (2009) *Anti-paternalism and Public Health Policy*. Thesis in Philosophy from the Royal Institute of Technology 31. Stockholm.
- Grill, K (2015) *Antipaternalism as a Filter on Reasons*, in T. Schramme (ed.) *New Perspectives on Paternalism and Health Care*. Springer.
- Holtug, N (2001). *On the Value of Coming Into Existence*, *The Journal of Ethics*, 5: 361-384.
- Kumar, R (2003) *Who can be wronged?*, *Philosophy & Public Affairs*, 31, 2: 99-118.
- Lippert-Rasmussen, K (2016) *Luck Egalitarianism*. London: Bloomsbury.
- Meyer, L H (2016) 'Intergenerational Justice', *The Stanford Encyclopedia of Philosophy* (Summer 2016 Edition), Zalta E N (ed.).
- Mullin, A (2014) *Children, Paternalism and the Development of Autonomy*, *Ethical Theory and Moral Practice*, 17: 413-426.
- Page, E (2007) *Intergenerational justice of what: Welfare, resources or capabilities?* *Environmental Politics* 16, 3: 453-469.
- Parfit, D (1984) *Reasons and Persons*, Oxford: Clarendon Press.
- Quong, J (2010) *Liberalism without Perfection*, Oxford: Oxford University Press.

Scoccia, D (2018) The concept of paternalism, in Kalle Grill and Jason Hanna (eds.) *The Routledge Handbook of the Philosophy of Paternalism*. Routledge.

Shiffrin, S V (2000) Paternalism, Unconscionability Doctrine, and Accommodation, *Philosophy & Public Affairs*, 29, 3: 205-250.

Sikora, R & Barry, B (eds.) (1978), *Obligations to Future Generations*. White Horse Press.

Thaler, R & Sunstein, C (2009) *Nudge – Improving Decisions About health, wealth and happiness*. London: Penguin Books.

Zwarthoed, D (2016) Should Future Generations be Content with Plastic Trees and Singing Electronic Birds?, *Journal of Agricultural & Environmental Ethics* 29, 2: 219-236.