

IN THE NAME OF THE FATHER: PATERNALISM AS CLASS WARFARE

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Paternalistic policies treat individuals benevolently but often intrusively. Daniel O'Brien argues that such policies unfairly target the poor and can undermine the choices of vulnerable groups in society. He contends that policymakers should be more accommodating in allowing the preferences of such groups to coexist alongside the views of those in power.

Introduction

Paternalistic policies are designed to prevent people from harming or failing to benefit themselves (Hillman, 2009). In theory and practice, such policies often target the poor on the assumption that they are most in need of saving. However, it seems evident that paternalism has overstepped its bounds, or at least manifested itself in policies that directly contradict that aim.

This essay does not entirely reject the logic of paternalism. Rather, it argues for a more informed and balanced understanding of the many harms within that logic that stigmatise and limit social mobility for the poor. These empirical risks must be more explicitly weighed against theoretical benefits when considering the extent to which paternalistic public policy is desirable in any society, as well as the aims and means with which policy is implemented. This essay will examine three traditional justifications for paternalism as offered by Hillman (2009): interdependent utilities, community values, and hyperbolic discounting. In each case it will examine how policy based on these justifications can disproportionately undermine the poor instead of helping them, before discussing how policies can be better targeted to achieve their stated goals.

Illegal Markets and Interdependent Utilities

There are two basic forms of paternalism in public policy. Hard paternalism is legally coercive, eliminating voluntary transactions in the legal marketplace either through compulsory spending or the banning or restricting of purchases (Hillman, 2009). Soft paternalism, as described by Thaler and Sunstein (2003), “tries to influence choices in a way that will make choosers better off, as judged by themselves”. Soft paternalism will be shown to be the less harmful of the two, and thus the more preferred basis for policy.

Hard paternalism can be legitimately justified when strong interdependent utilities exist, i.e., when one person's decision could strongly and negatively affect the utility of others. It seems logical, for example, to compel individuals to purchase health insurance. If such purchases were not compulsory, only those who frequently rely on their insurance would choose to buy in and it would become exorbitantly expensive for them to do so (Majerol, Newkirk, and Garfield, 2015). Society recognises that this logic punishes people who have made no fault of their own, e.g. being born with chronic health problems or having a serious accident. This effect also particularly hurts the working poor. In 2013, 71 per cent of nonelderly uninsured families in America had at least one full-time worker, and the most common barrier to insurance was cost (*Ibid*). Clearly, in some instances, involuntary purchases help to maximise utility for all members of society.

Far more often, though, hard paternalism removes the most preferred option for impoverished individuals by needlessly illegalising markets for the participant's own "protection". The commercial sex industry best exemplifies this flawed logic. Hillman (2009) offers a number of reasons for the illegality of commercial sex; he says that supplying sex "can be a means of last resort for earning income and suppliers can harm themselves". Getting a stressful minimum-wage job, or more often two or three, is also a means of last resort for earning income, but it is a far less effective way to do so than through commercial sex (Edlund and Korn, 2002). Welfare payments often attempt to eliminate the need for such undesirable circumstances, but Edin and Lein (1997) show that, in the US, commercial sex has been the largest supplemental income-earning activity for single mothers on welfare or with low-wage jobs, leaving the success of such efforts questionable at best.

Furthermore, workers in all fields and income brackets may harm themselves, but self-harm disproportionately occurs among sex workers because the market is illegal, not the other way around. Workers may be subject to abuse for which they have no legal recourse, especially given that illegal markets exclude law-abiding citizens by definition (Jakobsson and Kotsadam, 2010). The stigma of working in an illegal industry may also damage self-worth. Hillman sees this stigma as a reason to ban commercial sex, arguing that entering the field may limit one's choice of career options. Given that illegal markets for commercial sex thrive despite a perceived stigma, it seems that normalising sex work would be a preferable solution. Having to explain sex work on a CV may be embarrassing to some, but having to explain an extended period during which you were not legally "working" is far more damaging for career advancement. The specific effects of criminal convictions on labour market outcomes will be more thoroughly explored in the next section. Finally, it seems likely that some individuals, impoverished or otherwise, may not care about social stigmas regarding their choice of work, and would willingly supply commercial sex if they benefitted from traditional legal protections in the labour market.

Illegal markets are often mistakenly framed as inherently harmful. In reality the

alleged harms are far more symptomatic of the illegality of the market itself. The logic of interdependent utilities explains why this is an argument for the widespread legalisation of markets. If only one country legalises prostitution, for example, the benefit to that country is minimal. The supply of voluntary legal participants is likely to be offset by coerced or kidnapped workers from other jurisdictions, driving down wages and driving up the prevalence of crime and abuse (Jakobsson and Kotsadam, 2010). Each additional country that legalises the market for sex exponentially decreases the incentive for illegal activity in neighbouring markets.

Community Values

If the legalisation of certain markets is shown to be desirable in practice, it may still be objected to in principle. Hillman (2009: 387) discusses the idea of “community values” as a type of societal moral framework that paternalism seeks to promote and uphold. He says, “Paternalistic public policies in a government jurisdiction do not restrain personal behaviour in a community but rather reflect consensual community values chosen when people choose where to live.” Justifying paternalism through community values requires the problematic assumption that people are free, both legally and financially, to select the community they want to live in. Realistically, many people are born into a community whose values do not align with their own. Those most harmed by paternalism are often those with the least recourse to choose a new community.

The pursuit of community values has also, in some instances, had the exact opposite effect. Jeffrey Kling (2006) and Harcourt and Ludwig (2007) find that the U.S. federal government’s “War On Drugs” has undermined poor communities in a number of disturbing ways. Strict sentencing for even minor possession charges leads Kling to estimate that 32 per cent of African-American males born in 2001 will spend time in prison at some point in their lives, with most coming from impoverished backgrounds. Furthermore, for any given offense type, individuals with less human capital (e.g., education) tend to serve longer sentences (*Ibid*). Incarceration in any form leads to lost earnings, lost job experience, difficulty re-entering the labour market, and association with other criminals. All of these factors cause a serious risk of recidivism among impoverished inmates, as well as struggles to support a family or even a healthy life for the individual. Impoverished communities face far higher incarceration rates, often for petty crimes, and thus the struggle to establish community values stems, ironically, from legislative efforts to do so.

The loss of current and future income due to incarceration helps to perpetuate social inequality. Dahl and Lochner (2005: 30) find a distinct causal relationship between income shocks in poor families and educational achievement for their children – specifically an increase of 2.1 per cent and 3.6 per cent of a standard deviation, respectively, in math and reading test scores per \$1,000 in income. Accounting for omitted variable bias and endogeneity issues related to income, they also find evidence that incorporating ex-

peceptions of lower future income into current spending further harms a child’s health and education outcomes. Using community values as justification for policies that disproportionately (and perhaps unfairly) incarcerate the poor thus unequivocally undermines family structures and social mobility in vulnerable communities.

Crucially, the actors within society that determine community values and the way in which legislation promotes those values are far more homogenous than the community itself. They are also highly unlikely to come from impoverished backgrounds (Gilens, 2007). As shown in Figure 1, Gilens estimates that policy outcomes “strongly reflect the preferences of the most affluent but bear little relationship to the preferences of poor or middle income Americans.” This relationship stems from the disproportionate influence of wealth on political processes more so than any influence on actual public preferences (*Ibid*: 2). Community values are therefore less of a democratically agreed upon concept and more like the arbitrary legislative result of the current inclinations of powerful groups in society. Liberal governments should accommodate as wide a range of values as possible without violating basic individual rights (protection of private property, personal safety, etc.) in order to mitigate the persecution of minority groups under the guise of paternalism.

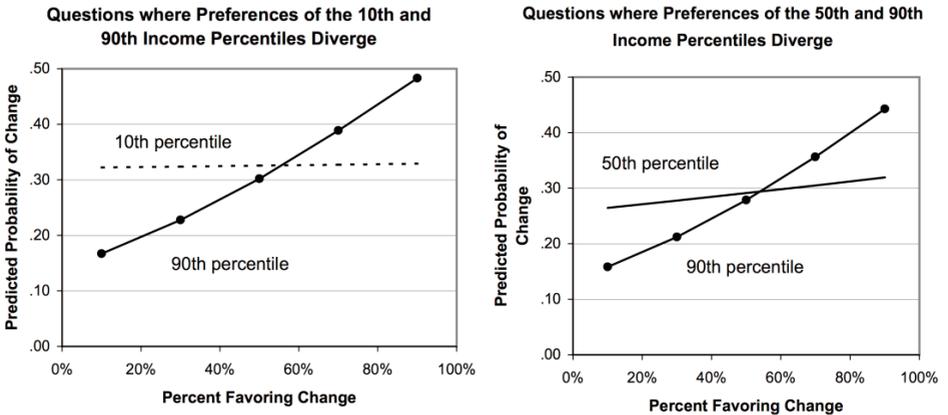


Figure 1: Income Effects on Policy Outcomes. (Source: Gilens, 2007)

Hyperbolic Discounting

Hyperbolic discounting, a third defence for paternalistic policy, refers to the tendency of individuals to act in ways they will, and possibly know they will, regret in the future. Specifically, the rate at which people increasingly discount future benefits over time forms a “hyperbolic” function. But policy rarely holds all hyperbolic discounters to the same standard. The miserly, workaholic banker may one day regret having overvalued money in the short-term at the expense of other components of happiness, like family time or travelling. There is no suggestion that he be protected from his hyperbolic discounting,

though, because his vices happen to align with the “community values” described above. Politicians, meanwhile, are among the worst hyperbolic discounters, prioritising short-term public opinion and re-election prospects over rational long-term policy (Bartels, 2002). The philosopher Jeremy Bentham famously declared, “nothing short of absolute idiotism can cause the individual to make a more groundless judgement than the legislator” (Persky, 2007). Yet somehow the poor remain the primary target of paternalism.

Unequal discounting is not even inherently irrational, especially for the poor. Murphy and Becker’s (1998) theory of “rational addiction” suggests that individuals can account for future costs such as addiction when making decisions to smoke, drink, or gamble. Similarly, Stegman (2007) argues that payday loans can fill a short-term financial need that makes them rational for some people. When Hillman (2009: 380) patronisingly declares, “people want immediate gratification and are therefore unwilling to wait until payday for their money,” he implicitly rejects the possibility that they are unable rather than unwilling. Individuals living on an already tight budget may face an unexpected family health emergency or need to repair the car they use to get to work. In these cases the money is more valuable at the present than it will be at the future payday, because without it the individual may no longer have a job. Lower income families have far less access to traditional loan sources (Stegman, 2007); so turning to a payday lender may be a painful but rational last resort.

The subjectivity of quantifying future benefits is also a relevant consideration of policy. Certain individuals are truly unconcerned about wealth and social status, and may value leisure time far more than any additional benefit from working or saving more. Similarly, some may view entrenched social immobility as reason enough to play the lottery or spend extra money on things that make them happy in the present. It is difficult to say for certain what counterfactual benefits they are foregoing, because only the individual can accurately evaluate their subjective benefits. Unless those decisions are putting children or other individuals at risk, policymakers have no basis to intervene. The Economist (2012) argues, “If there is widespread disagreement about the human good, about what counts as a benefit or a harm, then paternalistic policies, even when they work as intended, inevitably restrict the liberty of some citizens in the service of conceptions of the good they reject.”

In the context of the empirical harms of hard paternalism, the rapidly expanding literature on libertarian or “soft” paternalism should be welcomed. Soft paternalism can go a long way toward minimising the risks of hyperbolic discounting by designing policies to help those who unknowingly behave irrationally while respecting the decisions of others. First and foremost, the government bears primary responsibility for providing objective and helpful information to its citizens. Properly informed citizens find it easier to make choices that they feel are in their own interests (Camerer et al., 2003). From there it can further promote socially optimal decisions by setting incentives through tax credits,

etc. and by framing decisions appropriately (*Ibid*). Ultimately, well-targeted soft paternalism can be far more effective at loosening legislative shackles on the poor and freeing up social mobility.

Conclusion

This essay has shown numerous ways in which strong paternalistic attitudes and policies unfairly target the poor. They too often stigmatise and undermine the life choices of the most vulnerable groups in society. Policy decisions must offer more room for the experiences and preferences of such groups to coexist alongside the more traditional values and narratives of those in power.

Individuals are far from perfect at judging their own best interests, but that hardly precludes them from being the “best” at it. Following the logic of hard paternalism risks legislating regret out of life entirely. Almost any decision may end in regret, but none will necessarily do so. Searching for the ones that won’t is a crucial part of the human experience, and one to which the poor are disproportionately denied access in paternalistic societies.

References

- Bartels, L.M. 2002. "Economic Inequality and Political Representation". Paper read at the Annual Meetings of the American Political Science Association, Boston MA, August.
- Becker, G.J. and Murphy, K.M. 1988. "A theory of rational addiction". *Journal of Political Economy*. 96: 675-700.
- Camerer, C., Issacharoff, S., Loewenstein, G., O'Donoghue, T. and Rabin, M. 2003. "Regulation for conservatives: behavioral economics and the case for asymmetric paternalism". *University of Pennsylvania Law Review* 101:1211–1254.
- Dahl, G., and Lochner, L. 2005. "The Impact of Family Income on Child Achievement". Institute for Research on Poverty. Discussion Paper no. 1305-05.
- The Economist. 2012. "Against baby authoritarianism", *The Economist*. 11 June. [online], <http://www.economist.com/blogs/democracyinamerica/2012/06/paternalistic-policy>.
- Edin, K., and Lein L. 1997. *Making Ends Meet: How Single Mothers Survive Welfare and Low-Wage Work*. Russell Sage Foundation, New York.
- Edlund, L. and Korn E. 2002. "A theory of prostitution". *Journal of Political Economy*. 110:181-214.
- Gilens, M. 2007. "Inequality and Democratic Responsiveness in the United States". Prepared for the Conference on the Comparative Politics of Inequality and Redistribution, Princeton University, May.
- Harcourt, B.E. and Ludwig, J. 2006. "Broken windows: New evidence from New York City and a five-city social experiment". *University of Chicago Law Review* 73:271-320.
- Hillman, A.L. 2009. *Public Finance and Public Policy: Responsibilities and Limitations of Government*. Cambridge University Press, Cambridge.
- Jakobsson, N., and Kotsadam, A. 2010. "The law and economics of international sex slavery: prostitution laws and trafficking for sexual exploitation". Working Papers in Economics 458. Göteborg University, Department of Economics.

Kling, J.R. 2006. Incarceration length, employment, and earnings. *American Economic Review*. The Brookings Institution. January 2006.

Majerol, M., Newkirk, V., and Garfield, R. 2015. *The Uninsured: A Primer – Key Facts About Health Insurance and the Uninsured in America*. The Henry J. Kaiser Family Foundation. January.

Persky, J. 2007. “From usury to interest”. *Journal of Economic Perspectives*. 21:227-36.

Stegman, A. 2007. “Payday lending”. *Journal of Economic Perspectives* 21:169-90.

Thaler, R, and Sunstein, C. 2003. “Libertarian paternalism”. *The American Economic Review*. 93:175–179.