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The Double-Edged Sword: Paternalism as a Policy in the Problems of Aging

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THERE IS A PARADOX LOOSE. IN THIS AGE OF PIOUS altruism, Americans compete with tales of good deeds and denunciations of the apathetic, yet paternalism seems as utterly passé as it is possible for an idea to be. Although Western history is replete with justifications of societal efforts to improve and uplift the flawed individual (Plato, 1945; Augustine, 1950; Rousseau, 1973), the paternalistic assertion is rarely heard nowadays. This assertion is a claim by those in authority of *a right to interfere coercively or deceptively in the life of the ordinary citizen for his own good* (cf. Gert and Culver, 1976). In its more extreme form, paternalism dismisses the citizen as inherently incapable of adequately looking out for himself. More commonly, however, this incapacity is said to occur only under rather well-defined circumstances (e.g., when decisions require extraordinary technological expertise and time is short) or at particular stages in life (e.g., extreme youth or old age). In either case, however, it is presumed that those in authority are capable of discerning the citizen's best interest and pursuing it, and that he is not. The governing metaphor is the relationship of a wise and loving father (*pater*) to his

immature child. It is no small irony, therefore, that the stratum of the adult population that is most often the object of paternalistic endeavors is the aged.

“Unintelligent, unemployable, crazy and asexual”—this, according to a prominent gerontologist, is how America tends to view its aged (Comfort, 1976). In part, this view reflects a venerable tradition of denigration that can be traced back to Hellenic culture and beyond. America’s frontier and immigration experiences plainly reinforced this feeling, with their stress upon such apparently youthful virtues as mobility, physical strength, and self-sufficient adaptability. A variety of nonhistorical factors, however, have also contributed to the elderly’s widespread negative image, such as their alleged inability to achieve in an achievement-oriented culture (Clark, 1967; Cowgill and Holmes, 1972) and their isolation from younger generations in an age-stratified society (Riley et al., 1972). But whatever the explanation, the antipaternalist is not surprised to read that an eminent philosopher who fled Nazi Germany for America later fled America for Germany, declaring sadly that “America is no place to grow old” (Ulich, quoted in the *New York Times*, 1977a).

Despite the fact that the word “paternalism” is out of fashion, I have become convinced that paternalistic attitudes are much in evidence, and that it is worthwhile to try to analyze this phenomenon. By profession, I am a political scientist. However, circumstances brought me into contact with relevant matters in the domain of health policy. These experiences motivated the present effort, in which I examine especially certain problems associated with aging.

First, I shall introduce quickly four of the most significant criticisms of paternalism, focusing on the policies toward aging, and follow them immediately by a survey of four key arguments that can be mounted in defense of paternalist strategies. Next, I outline a crucial contemporary problem—the institutionalization of the allegedly incompetent “senile” aged. In that context, I introduce the term “inner” paternalism, contending that this form of paternalism represents its most dangerous present-day manifestation. I then discuss three caveats to be kept in mind in determining paternalistic or antipaternalistic policies to be used toward the aged, and, in conclusion, attempt to indicate how paternalism conceivably may be kept within its proper bounds.

The Antipaternalist Position

Against paternalistic policies toward the elderly, four arguments can be made. The first three are basically elaborations on the theme that, when applied to the real world, these policies do not work well. The last seeks to demonstrate that paternalism is inherently offensive and should therefore be rejected, irrespective of whether problems develop in its actual operation.

First, the antipaternalist contends that although the aged citizen will not always discern and pursue his own best interest, he will do so more often than will public officials or even family members, for only he can appreciate his wishes, anxieties, needs, and point of view with the solipsistic purity of the insider. As Mill put it, speaking in the broader context of an archetypical citizen, "He is the person most interested in his well-being" and "with respect to his own feelings and circumstances, the most ordinary man or woman has means of knowledge immeasurably surpassing those that can be possessed by anyone else" (Mill, 1926:90). The paternalistic metaphor, therefore, is seen as inappropriate and misleading. Political and legal authorities, unlike idealized fathers, are not ordinarily all-wise, loving, and knowledgeable in regard to the elderly, who, for their part, unlike small children, are not ordinarily immature, naive, and ignorant.

Second, paternalism, by seeking to reduce the risks of existence for the aged, may deny them the opportunity to frame a challenging life for themselves. Such a life, to be sure, may be neither attainable nor safe, but its potential of accomplishment—or even mere efforts at its accomplishment—may prove more rewarding to the individual than the frustrating environment in which a well-meaning government or family protects a person from himself. Yet there is an undeniable hesitance to tolerate such dreams for the elderly who, for example, after weighing the comfort of old friends and familiar surroundings against the growing inconvenience of housekeeping and threat of criminal victimization, may choose to remain in their old neighborhood. The family may fail to understand that physical security is a normative value that is not desired by everyone to the same degree, and may attempt to impose its values on the old person. His choice, therefore, might be seen not as one on which reasonable persons might differ but, instead, as one so outrageously foolish that in-

stitutionalization seems the only means to save him from the consequences of his own impaired judgment (Rabinowitz and Nielson, 1971). All of this suggests that the costs of seeking to bestow a secure life on the aged may be major, indeed, if not undertaken with extraordinary sensitivity, caution, and compassion, qualities never in adequate supply.

Third, as a practical matter, paternalism may serve as a convenient rationalization for a morally dubious self-interest. Governments or families, in other words, may coercively or deceptively "help" the elder for their own benefit. Under a joint federal-state policy enunciated in 1963, for instance, hundreds of thousands of elderly and other mental patients have been discharged from institutions as a means of promoting patient rehabilitation and increasing patient freedom. Nearly half the mental health centers that the policy makers had envisaged to care for the released patients, however, simply never materialized, and the centers that were operating were often substandard or poorly coordinated with their partner agencies. Thus, far from constituting a bold effort to aid the patient, deinstitutionalization often became a cynical slogan justifying the redistribution of expenditures away from patients. It was not without cause, therefore, that one official remarked of his state's program, "The only beneficiary of the state's effort to send mental patients back to their local communities has been the New York State treasury" (Golden, quoted in the *New York Times*, 1979).

The paternalistic family has also come under attack. Indeed, the "dumping ground" theme has already become a cliché in modern fiction: an aged person, having come to be viewed as a burden by his family, is "put away," ostensibly for his own good (Sarton, 1973). This rationale serves to mollify the outside world and soothe the family's conscience, but the actual reason behind the decision is often simply that the aged person has become a nuisance.

Whatever the reasoning, approximately 1 million old people are currently institutionalized, and a mere 1 percent increase in the proportion of the institutionalized aged by the year 2000 will double this number to approximately 2 million. In fact, one out of five persons over age 65 will live part of his life in an institution. Government may play a role in the institutionalization, too, by creating disincentives for the maintenance of extended family households. The aged mentally

ill, for example, lose a third of their supplemental security income benefits if they live with relatives.

Fortunately, this melancholy dumping-ground saga occurs far less frequently than is generally believed. Nearly four-fifths of the men over age 65 and nearly three-fifths of the women live with a spouse or children (Population Reference Bureau, 1975), and the vast bulk of home care received by impaired elderly is provided by family members (Department of Health, Education, and Welfare, 1972; Community Council of Greater New York, 1978). Only 4 percent of the aged are institutionalized, and when families initiate such action, usually they do so with great reluctance and only after numerous alternative approaches have been tried (Monk and Dobrof, 1978; Lurie, 1979; Haberstein and Biddle, 1974; Brody, 1978; York and Calsyn, 1977). A disproportionate number of the institutionalized elderly previously lived alone, in any case, and if "a person has no family, that non-existent family cannot neglect him" (Shanas, quoted in the *Des Moines Register*, 1974).

Fourth, in those instances in which government is involved, paternalistic policies necessarily imply an official intolerance of the citizen's alleged shortcomings and a subordinate relationship that counter the presumption of equality, and thus are "in plain conflict with democratic doctrine" (Simon, 1951:16). Moreover, the very attempt to treat citizens in this fashion deprives them of valuable opportunities to learn from their own mistakes, and rejects the distinction between public and private spheres that is essential to the preservation of privacy, a value of particular importance to the elderly (Baldock, 1975). A well-meaning attack on the rights of the aged, in this view, might promote habits of thought within the government and the populace that could be used to justify similar attacks against other groups in the future: an official denial of the elder's freedom to manage his purely personal affairs infringes upon his status as a rational, moral, autonomous being. And, as Mill (1926) argued in his classic "On Liberty," such a denial of the individual's intelligence, virtue, and ability to choose amounts to a denial of nothing less than his humanity.

For all these reasons, paternalism—at least, in the abstract—seems to nearly everyone an odious doctrine, unworkable, tempting to abuse, and profoundly flawed. The vulnerability of the aged, further, renders the doctrine's application to them especially troubling.

The Paternalist Position

That paternalistic policies in fact exist suggests that the paternalist—if, indeed, a spokesman would accept the label—is not without arguments of his own. Four basic contentions can be distinguished, of which the first three are largely refutations of opponents and the last a more positive claim for the doctrine itself.

First, paternalists would reply that their opponents seek to maximize the freedom of the aged person, in the sense of a literal self-determination, because, like Mill, they believe that a free man is most fully a man. For most people, however, freedom is not the *summum bonum*, but an instrumental value. We desire freedom, in other words, because we feel that its exercise will help us achieve that deeper goal “which in itself alone makes life desirable and lacking in nothing” (Aristotle, 1925:1097), namely, happiness. But paternalists contend that freedom is not the only road to happiness, and that sometimes, in fact, freedom may lead in the opposite direction. Thus, they conclude, when paternalism will maximize the happiness of the elder, it ought to be followed, even at the cost of some of his freedom. To do otherwise would be to confuse means with ends.

Yet, it might be replied, how can we be certain that a paternalistic policy will actually maximize happiness? The answer, of course, is that we cannot be certain, for neither paternalism as a method nor happiness as a result can be measured with the precision of a laboratory experiment. But one indication that a paternalistic policy at least conduces to happiness would be its popularity, and it is obvious that many variants of paternalism affecting the elderly do not seem unpopular to those they serve—Social Security’s Old Age, Survivors, Disability and Health Insurance Program, for example, or the food stamp program (whose in-kind aid denies the recipient’s capacity to budget his funds wisely).

Second, the antipaternalists appear to postulate an unrealistically sharp distinction between the private sphere (which is seen as pretty much the aged person’s own affair) and the public sphere (where a societal interest would permit some governmental intrusion). The public and private spheres, however, by now so overlap that a pure case of paternalism toward the aged, involving no societal interest, is extremely hard to find. The government’s permitting or requiring mandatory retirement at a predetermined age, for example, is in-

tended not only to ensure the private goal of years of relaxation for the aged, but also to further the public goal of making room for youths hungry for jobs.

Third, in today's complicated world, there are many occasions when the aged citizen's ignorance or short-sightedness might assert itself with calamitous effects. Even Mill, in his "exemplary argument against [the doctrine] that individuals should be protected from themselves" (Honderich, 1974:463), admitted that we may forcibly prevent a man from crossing a bridge if there is no time to warn him that it is about to collapse, for we are warranted in assuming that he is unaware of the danger and does not wish to fall into the river. The perils of ignorance in a modern, technological society, although more subtle, may be no less real. In fact, their nature may be such that we cannot take for granted that the old person will "outgrow" his need for guidance, as a child outgrows his need for parental authority. On the contrary, a citizen may actually need more guidance when he is aged than he did when he was younger, for much of the information and skills that he possesses may be so obsolete as to be of little help or perhaps even to be dangerous. The beneficence of butter and eggs for one generation, after all, can become the bane of cholesterol for the next. A deterioration of the mental faculties, of course, would serve only to accentuate the difficulty of coping with change. Social paternalism, hence, need not be temporary in the sense that literal familial paternalism is. One is hardly surprised to read, therefore, that "the history of modern society, from one point of view, is the assertion of social control over activities once left to individuals or their families" (Lasch, 1978:xiv).

Fourth, it is worth recalling that paternalism is founded on the urge to help others, still possibly the most widely admired of virtues. It is true that paternalism ties altruism to arrogance, for it entails not only doing something for someone but also deciding that he requires this assistance—sometimes, despite his own pleas to the contrary. Yet the Golden Rule has its arrogant aspect, too—the assumption that others have the same desires as you, so that doing unto them as you would have them do unto you accords with their desires—and no one advocates its demise.

Critics of paternalism, by stressing the import of the violations of the elder's rights, quite ignore governmental authorities' own moral obligations. Like all of us, they are of course obligated to do good and

reduce suffering when it is in their power to do so, provided that these acts inflict no appreciable harm on themselves. But although ordinary citizens are too weak to accomplish much, public officials can call on the vast resources of the state. Their capacity to do more, therefore, entails a duty to do more. Viewed from this vantage, the paternalistic assertion seems to stand the Golden Rule on its head, for the official believes not only that he would like to be safeguarded by government if he were an ordinary citizen, but also that the citizen would see his obligation to safeguard if he were an official.

A Contemporary Problem: "Internal" Paternalism

Thus far, the problem of paternalism and the aged has been treated in rather abstract terms, the principal focus being directed toward protecting the elder against some external danger, like destitution. But what of internal dangers? Can we justify the incarceration of aged persons deemed incompetent to mental institutions or nursing homes by the same rationale by which we might justify the compulsory taking of a portion of the paycheck for Social Security? When life, liberty, and the pursuit of happiness appear to be mutually exclusive, how shall we value one over the other?

This is a very contemporary kind of problem, for it reflects twentieth-century concerns, twentieth-century ambitions, and twentieth-century capabilities. The impulse to extend paternalism to the psyche, after all, is due in part to a modern compassionate revulsion against the harshness of the past, when the mad were regarded as possessed by devils, imprisoned in bedlams like criminals, or left free to suffer or be preyed upon by an indifferent or hostile society. Partly, too, this paternalism has been a consequence of the scientific and technological character of the age. Vulgarized, distorted, and misconstrued, it seems to suggest both a determinism that absolves the individual from responsibility for his acts, and a possibility of manipulation that promises wondrous results from the appropriate therapy (Skinner, 1971, 1974). The effect has been to fortify a hubris eager for the chance to uplift the individual by changing his behavior and even by changing his very self.

Moreover, despite the awesome and undeniable benefits of science

and technology, an observer must concede that their concern seems to be more with the aggregate—the “general welfare”—than with the individual, who is likely to be perceived merely as a means to gaining knowledge or devising techniques. The difference thus engendered to the individual’s point of view clearly eases the onus of imposing values and behaviors upon him.

Enormously increasing the impact of this exaggerated faith in science has been that quintessentially modern phenomenon, the bureaucracy. In times past, authorities on occasion assumed the obligation to try to reconstruct the selves of nonconformists, often under the press of ecclesiastical demands. But these periods, requiring as they did an enthusiasm indistinguishable from fanaticism, could not last very long. Intensity would flicker and die, the imperatives of daily routine would regain ascendancy, and the project would be put aside. But with the rise of bureaucracy, personality alteration is no longer dependent on spontaneous enthusiasm but has become institutionalized, as agencies and their employees see it as their *raison d’être*. Thus routinized, it is no longer the product of a temporary fervor that will be overcome by the mundane and the everyday, for it *is* the mundane and everyday and, therefore, the permanent.

These bureaucracies, whether they govern general hospitals, mental hospitals, or nursing homes, differ from ordinary bureaucratic organizations. As more or less self-contained enclaves of paternalism, they constitute what Goffman (1961) calls “total institutions.” In such settings, all aspects of the elder’s life, waking and sleeping, are carried on in the same place in the company of many other similar elders and under the surveillance and management of a single and all-powerful authority. Elders and staff tend to view the other in stereotypical terms, elders seeing the staff as patronizing and indifferent, and staff seeing elders as physically incompetent beings incapable of real thinking or feeling. The staff, in their dominant position as agents of authority, prevail; the aged come to accept and internalize authority’s low regard for them. As a consequence, the elder is soon stripped of his former role: his productive work ends, his relations with family and friends are disrupted, his possessions are left behind, he finds himself living with peers he might never have chosen, his individuality is sacrificed to bureaucratic convenience and necessity, he no longer selects even the food he eats or the clothes he wears.

For some elders, psychological withdrawal is the main response;

others become model patient-inmates or feel so overwhelmed by their own vulnerability that they develop a disabling fear and rejection of the larger society from which they came; and others, like the protagonist of a recent novel, become obstinate trouble makers whose heroism is visible only from afar:

People expect serenity of the old. That is the stereotype, the mask we are expected to put on. But how many old people are serene? I have known one or two. . . . My anger, because I am old, is considered a sign of madness or senility. Is this not cruel? Are we to be deprived even of righteous anger? Is even irritability to be treated as a "symptom"? There I go. . . . (Sarton, 1973:80-81)

The atmosphere in such institutions is apt to be one of personal failure and the time spent in the place is apt to be written off as time wasted.

The staff, for its part, tends to view the institution as rationally organized to achieve legitimate and, indeed, indispensable ends. There is a common though unexpressed wish that the elders be inanimate objects, rather than persons with intelligence, uniqueness, and unpredictability that may interfere with routine, reduce efficiency, and add to the work. If the staff member should come to look upon the elder with sympathy and regard, organizational activities may be hampered and "proper" attitudes undermined, for impersonal detachment is typically a prerequisite for satisfactory staff functioning. Staff who become thus emotionally involved may retreat to distant paperwork or even leave the institution altogether.

The rationales of incarceration—medical, psychiatric, custodial—carry with them a comprehensive world view that defines the elder's needs and capacities, subordinating them to the bureaucratic imperative of manageability. This goal is more often pursued through numbing drugs like Thorazine and Mellaril than by methods born of kindness and imagination. It is no wonder, then, that a rebellious fictional elder declared, "They won't get my head," and refused to take his tranquilizers (Sarton, 1973:25).

In part as a reaction against such approaches, more ambitious behavioral techniques have been devised to reduce certain disorders associated with senility. Perhaps the best known is reality orientation (RO), which, in its more structured format, features daily classroom sessions of fifteen to thirty minutes involving a therapist and four or five patients, who are asked to read an RO board on which are affixed

cards with such basic information as day, date, and weather. Another version of RO centers on the staff's continually reminding the patient who and where he is. Though such techniques have their advocates (Folsom, 1968, 1972), critics charge that in practice RO may not decrease confusion but encourage it, and that the approach is oppressively meddlesome in that "it morally and officially imposes one group's definition of living on another in the name of allegedly 'objective' rehabilitation" (Gubrium and Ksander, 1975:145).

Many will recoil from both drug and behavioral approaches. For from the critic's perspective, paternalism applied to the internal psychological realm appears qualitatively different from traditional paternalism applied to the external realm. In the latter case, we may speak of what the elder does will and ought to will; in the former case, we reject the claim that he has the capacity to reason that renders the self capable of meaningfully willing anything. In the latter case, we assert control over a small and probably minor portion of the elder's life; in the former case, we assert virtually complete authority over his whole being, including even the right to alter his personality. In both cases, the elder's desires may be thwarted by government action designed to save him from serious harm, but clearly the implications of a situation in which officials use the power of the state to deny the existence of a reasoning self, and undertake to perform that function for him, are far more profound and frightening.

A secondary question internal paternalism raises is whether specific elders have been improperly committed because of bureaucratic malice or error or simple lack of available alternative facilities. By its nature, the evidence is necessarily incomplete, but the data we do possess are hardly reassuring. In New York City, for example, one-ninth of the aged in mental hospitals were rated not certifiable (Goldfarb, 1961), and in Belfast a quarter of the aged admissions to a mental hospital and a third of those to a geriatric hospital were misplaced (Kidd, 1962). Berg estimates that fully 94 percent of the institutionalized aged in a state mental hospital did not require hospitalization (Duffy, 1975), and Markson and his associates (1971) suggest flatly that there is no compelling reason for sending geriatric patients to mental hospitals unless they need short-term intensive psychiatric therapy.

The primary question paternalistic practices raise, however, is far larger: whether the compulsory commitment of any elder who has not

broken the law or harmed another person can ever be justified. The practical magnitude of the problem is suggested by a pioneering study of the decision-making process involved in the admission of elderly persons to a San Francisco psychiatric ward, in which it was discovered that nearly all of the elders were admitted for "their own good." Only about 5 percent had actually harmed others and a similar small percentage were classed as "potentially harmful" (Lowenthal, 1964).

Sting is added to the issue by two easily overlooked facts. The first is that the aged usually are themselves averse to institutionalization, whether in the form of nursing homes (Shanas, 1962; Beyer and Woods, 1963) or psychiatric wards (Lowenthal, 1964).

The second question, perhaps even more disturbing because it bears on the crucial matter of the qualifications of the paternalists, concerns how the dangerous are distinguished from the harmless and the sick from the well. Although data on violence prediction among the aged are scanty, massive and repeated studies exist of such predictions among criminal offenders in psychiatric incarceration. These results are so devastating to claims of psychiatric predictability that the whole effort must at this stage of its development be called into real question. Indeed, in eight major research efforts undertaken in the 1970s, it was reported that violence was overpredicted between 54 and 99 percent (Monahan, 1978). Elaborate "predictor scales," psychological testing, more subjective judgments of experienced diagnosticians—none has produced findings of even minimally acceptable reliability (Pfohl, 1977). It is possible to speculate on the causes of this sorry performance: false negatives are far more damaging to the status of the predictors than false positives; a prediction of dangerousness may be required to ensure the involuntary treatment that the predictor favors for other, perhaps humane, reasons; the prediction of relatively rare events is inherently very difficult. But whatever the explanation, psychiatric contentions that mere predictions of violent behavior can justify institutionalization are not easy to sustain.

As for distinguishing the sick aged from the well, "senility" typically is the critical factor in the determination. But as one physician conceded recently, senility "is a diagnosis doctors must make by impression, primarily by a bedside examination, because they have no specific diagnostic laboratory test such as high blood sugar to confirm diabetes" (Altman, 1977:9). Furthermore, the imprecision of the concept and its contours is matched by doubts as to its etiology, for while

it may be widely assumed that "there are very erudite and definite explanations for senility" (Oberleider, 1969), its cause or causes remain frustratingly unclear. A brain shrunken from the irreplaceable loss of millions of neurons may sometimes be to blame, for example, but the relation of brain shrinkage to senility is known far too imperfectly to supply the whole answer. In fact, the association of brain change and senility remains an area filled with puzzling inconsistencies. It is hardly surprising, then, that senility may be mistaken for the symptoms of emotional breakdown (Oberleider, 1969), occult hydrocephalus (Adams et al., 1965), malnutrition, excessive medication, walking pneumonia, anemia (Butler, 1976a), hypothyroidism, subdural hematoma, bladder infection, or dozens of other treatable or curable conditions (Sinex, 1975).

The problem of diagnosis, however, is not only medical, but it is also deeply rooted in the powerful stereotype of the incapacitated old person. Health providers, family, and friends share the natural tendency to see what they want or expect to see and to ignore or distort what does not fit their preconceptions. Thus, normality goes unrecognized in a milieu where abnormality is expected (cf. Bateman and Dunham, 1948–1949). In this way, symptoms of degeneration may be noticed, exaggerated, even unintentionally fabricated, while disconfirming behaviors may go neglected and unreported.

The popular association of institutionalization with the aged may also reinforce the stereotype, for institutionalizing some of the aged may, by singling out old persons for removal from society, stigmatize the aged as a class. This removal, it is widely believed, is lacking in the traditional justifications—punitive, educative, curative—and is merely custodial because the condition of being old cannot respond to human effort. The apparent hopelessness of the situation is underlined by the layman's discomfiting image of institutionalized elders as peculiar in appearance and behavior, inhabiting a "foreign country with an unknown language" (Sarton, 1973:23) and living a life of inertia and boredom in which time passes but things change little until the final deterioration.

The pernicious stereotype of the doddering, mind-befogged elder may also be related to a prevalent but misleading notion of aging itself. Viewed as "something that happens to us" (Geiger, 1976:5), it leaves the individual as a passive victim of powerful and impersonal forces. In truth, however, the individual is also the victim of our—and his—

expectations. Over the course of a lifetime, that is, he learns how an aged person "ought" to behave, and this, together with very widespread social reinforcement, contributes to his adopting that role, incapacities and all (McTavish, 1971). But even when his incapacity is not, in this sense, "learned," it may have social and not biological causes. Depression, for instance, may derive from the elderly person's sense of isolation and loss of social standing and purpose, and what appears to be lethargy may instead be an atrophy of personality "because no one asks them what they feel or why" (Sarton, 1973:81).

Difficulties in properly applying the label "senility," moreover, also seem to reflect a general slighting of the problems of the aged in medical education, research, and care (but cf. Berliner, 1977:32-33). "Perhaps less than 15 of an estimated 25,000 faculty members of American medical schools have a genuine expertise" in geriatrics, the director of the National Institute on Aging complained (Butler, 1977b). Thus, barely a third of America's medical schools offer elective courses in the subject (Cooper, 1977), and even these courses are often taught by nonphysicians of lower status in the student's eyes; only three schools offer it as a specialty (Percy, 1977). Furthermore, in spite of the large numbers of elderly patients, textbooks focus not on the aged but on the typical (and presumably ageless) 70-kilogram man.

Real student contact with the elderly, meanwhile, is apt to be unremittingly negative. For instead of finding healthy, self-sufficient elders—not a single medical school has a working relationship with a senior center (Butler, 1976b)—the student encounters them as chronically ill, apparently senile, literally dying, or as his much-ridiculed cadaver. It is hardly surprising, therefore, that student attitudes toward the aged actually deteriorate during medical school (Spence et al., 1968).

Nor is it surprising that this insensitivity often surfaces later in misdiagnoses, especially in the confusion of drug intoxication and depression for senility. Though the aged consume a quarter of all prescription drugs, pharmacology courses and drug manuals normally focus upon the middle-aged man, whose rates of absorption, metabolism, excretion, tissue-binding, and organ responsiveness may produce very different results. The greater likelihood among the aged of errors in patient compliance and of multimedication for a series of afflictions complicates matters still further. Meticulous physician care, as a consequence, may be essential to avoid iatrogenic reactions, whose

symptoms frequently mimic senility. Similarly, though depression is very common among the elderly—a quarter of all suicides are committed by persons over age 65—physicians often fail to diagnose and treat it because it may not be associated with such typical symptoms as low self-esteem, guilt, and self-pity. In time, such depression may be falsely labelled “senility.”

The problem, however, is that whether accurate or not, the label “senility” may be tantamount to consignment to medical oblivion “because the prognosis is so serious and the effectiveness of treatment is not clear” (Libow, quoted in Altman, 1977). Thus, even if the condition actually is reversible, it may well be assumed to be degenerative, and this assumption may act as a self-fulfilling prophecy that leads to care that permits or hastens the process of deterioration.

Thus, at the hospital level, care for the aged may seem counter to the institution’s curative mission and, in that sense, a symbol of failure and a source of guilt or shame for the staff. Even at the level of nurses’ aides, orderlies, and attendants, service to the elderly may prove inadequate. Low pay, little opportunity for advancement, constant turnover, brief training, and low job satisfaction have undermined the quality of care (Schermer, 1977), and a suspicion persists that the obvious vulnerability of the elderly leaves them open to exploitation and abuse from the frustrated workers on whom the institutionalized aged are so heavily dependent.

Yet it is clear that the main threat of paternalism to the liberty of the aged results from good intentions and not ill, and, adding to the heavy irony, is the more potent and insidious for that. Although acting from pure motives, paternalists are not restrained by conscience but propelled by it, and opponents are to some extent disarmed by the apparent nobility of their foes.

Still, it may be replied, surely this argument against the paternalism of the internal is overdrawn. For the number of old people in state hospitals has been dropping sharply, from 135,322 in 1969 to only 50,685 five years later (Church, 1977). Not all of the aged freed from hospitals are at liberty, of course. Some have merely been transferred to nursing homes. Nor is a libertarian antipaternalism the sole or even the prevalent motive behind this movement. Probably the fear of the cost of implementing “right-to-treatment” court decisions (e.g., *O’Connor v. Donaldson*, 1975) and the opportunity to replace state funding with federal Supplementary Security Income were the true

bases of the new policy. But whatever the reason, it is frequently hard to argue that the elders involved have reaped real benefits. Sometimes forced by circumstance to share dwellings with discharged psychotics or paroled felons, the aged too often have fallen victim to predatory neighbors made bold by the overwhelming fact of society's indifference.

Moreover, even when fortunate enough to avoid such dangers, the elder may find his freedom a useless possession, for of what value is liberty to one buffeted by the violent inner winds of the mind? Does not liberty presume a minimum level of rationality and maturity (which is why, for example, children are not free to bind themselves through contracts) that the seriously mentally ill simply do not possess? Is anything gained in clarity by terming the elderly schizophrenic and the senile "nonconformists" or "deviants," as if their departure from the norm were minor and theirs to initiate and to end? Can the deteriorations of aging be dismissed with the fatuity that growing old is a psychosomatic or sociosomatic illness? Is the romanticization of the incompetent aged a tribute to their humanity or merely a means of exploiting their weakness for ideological purposes? If it is true that with the best of intentions it may be difficult to determine who requires the help and protection of the state, does this amount to conceding that no one needs it unless he first asks for it? Or is this merely a rationalization for a callous evasion of responsibility? Granted that the current grasp of the causes and cures of mental illnesses among the aged may be unsure, does this constitute sufficient reason to abandon the entire enterprise until such time as we can be confident in our understanding and treatment? If so, how do we essay this quantum leap in learning, if we cannot in the meanwhile proceed on the basis of our incomplete knowledge? How confident ought we to be, and how do we determine that? Even if the existence of mental illness be denied, can we dismiss the fact of terrible and incapacitating mental suffering? The questions attack en masse, and, like feeding wolves, in slashing bites devour the flesh of our certitudes.

Three Policy Caveats

In applying paternalistic or antipaternalistic policies to the elderly, three major complicating factors must be confronted.

First, although one speaks of the elderly as an age-defined stratum, they hardly constitute a homogeneous group. On the contrary, since individual differences increase with age, the elderly comprise society's most heterogeneous age-defined category (Kelly, 1955). Given such wide and numerous variations among the aged, policy generalizations necessarily become treacherous, but with 23 million aged, social policy can hardly be geared to individuals. Instead, we must be satisfied with its fitting collectivities. Traditionally, the governmental response to this fact of administrative life has been to divide society dichotomously into the competent and the incompetent (Thurow, 1976; Gunn, 1977). A more realistic and perhaps less paternalistic view, however, would take into account the obvious matter of degree. Some elders, in other words, may be competent to make all decisions affecting their lives, some most decisions, some only a few decisions, and some virtually no decisions. Recognition of the notion that competence-incompetence are not mutually exclusive planes but rather two poles on a single continuum suggests that government divide the aged into numerous subcategories according to the amount of paternalistic care that would be appropriate. Such an approach is tempting, for it seems at first glance to offer the most feasible substitute for a clearly impractical individualized, case-by-case analysis. Yet this approach is not without its drawbacks, too. For a proliferation of subcategories would impede efficient and coordinated administration, sow dissension by multiplying the instances of bureaucratic line-drawings (which must always be partly arbitrary), and create competition among groups of the aged that might weaken them in their general fight for societal resources. Furthermore, as their status changes, older people would be moving back and forth among categories.

The second caveat is that the striking heterogeneity of the aged population does not obviate the necessity of formulating and coordinating an overall political strategy. Instead, the heterogeneity makes coordination even more vital, for otherwise the sheer diversity of interests may so proliferate conflicting demands and encourage cacophonous claims and harangues that even well-intentioned officials may find themselves confused as to how to respond.

All of this is illustrated by a fundamental dilemma implicit in the political strategy adopted by the advocates of the aged, a dilemma no less sharp for its being unacknowledged. Rhetorically, this strategy consists essentially of two assertions: first, that the elderly are suffer-

ing grievously and will suffer even more in the future; second, that their problems are unique to their age group and require programs uniquely targeted at them. Both of these assertions are open to some question. Thus, a careful study of the changing status of the aged reveals that, with respect to health, income, occupation, and education, there has been substantial improvement over the past decade and that this improvement will probably continue to increase for the rest of the century. The gap between the elderly and the rest of society, moreover, has been narrowing (Palmore, 1976). "The fringe benefits, pension plans, and increased Social Security have made the older working class in the United States richer than it ever was before" (Schmiedeskamp, quoted in Colamosca, 1977), one marketing analyst concluded.

The complaint that "the problems of the American elderly have gone practically unnoticed" (*Suffolk Law Review* 1973:918), moreover, is heard so frequently that one is reminded of Kerensky's sobriquet as "history's most famous forgotten man." And though certain medical problems often have different causes and treatments among the aged (e.g., headaches, weight loss, altered cholesterol levels, mental changes, fevers, arthritis, and diabetes), their principal problems regarding health, mobility, employment, income, and loneliness probably differ from those of the rest of society far more in degree than in kind.

Nonetheless, in accordance with these by now familiar complaints, a whole range of programs and services are directed exclusively, or nearly so, at the elderly: Medicare, reduced property taxes, discounts on mass transit—the list could be extended indefinitely. Indeed, by 1978, nearly a quarter of the entire federal budget—fully \$112 billion—was devoted to the elderly.

The problem is that the aged cannot be singled out for special advantages without also being stigmatized as being incompetent or needy. And this stigma can operate as yet another destructive self-fulfilling prophecy, for both society and the aged themselves may well view these policies as an official societal judgment as to the inferiority of the old. This judgment, in turn, may support not only programs that aid the elderly, but also paternalistic programs that strike at "the linchpin of the quality of life for the aged," their sense of self-esteem (Schwartz, 1975). Thus the dilemma: The advocates of the elderly believe that, in order to receive aid, the elderly must be portrayed as

living so wretchedly that the remedial programs will likely threaten such basic assets as their independence, social status, and sense of worth. On the other hand, if the elderly are not so portrayed, their advocates feel that they will probably be beaten out by other interests that make claims on the public purse. There is good reason, however, to believe that exaggeration of the problems of the aged may no longer be necessary, even for public relations. Pat Cadell, President Carter's pollster, reported for example that of twenty different major policies involving increasing government spending, aid to the elderly was clearly the most popular (Pepper, 1977b). And even in time of real austerity, no administration has dared propose taxing Social Security benefits or eliminating their tie to the consumer price index. And as their growing numbers presage an era of even more striking "gray power," the elderly's political power will almost certainly increase in the years ahead. Yet, apparently possessed by their own sense of vulnerability or encouraged by the innumerable successes won by accentuating the negative, the aged show no signs of abandoning the strategy. Whether they change or not, however, their gains seem certain to be accompanied by major losses of a different order.

The third caveat is that a society that likes to consider itself relatively free should be most reluctant to part with its freedom. This is not to say that all paternalistic interferences with liberty ought to be rejected, but it is to contend that the burden of proof lies with the paternalist and not his opponent. Liberty, according to this view, occupies a preferred position in the American system of values and should not be sacrificed merely on the basis of convenience or surface reasonableness but only on some showing of compelling need or overriding social or individual benefit. But though a presumption of invalidity attaching to paternalistic proposals may make the task of the decision makers a bit simpler, no one should suppose that it can ever be made truly easy.

In addition to that presumption of invalidity, the preference for freedom might also be manifested by efforts to supply alternatives to paternalistic choices and by a concern that paternalistic approaches be subject to strict controls. The importance of offering nonpaternalistic alternatives is most often expressed in the context of institutionalized long-term-care services, and typically involves the government's taking action to facilitate the elders' independence. Thus, Claude Pepper, chairman of the Subcommittee on Health of the House Committee on

Aging, proposes "authorizing an experimental program to provide care for elderly individuals in their own homes" (Pepper, 1977a), the Older Americans Act supplies federal funds for transportation and homemaking services, and Robert N. Butler, director of the National Institute on Aging, suggests "tax relief to a family that builds an extra room for an aged parent or helps with the rent on a nearby apartment" (Butler, 1977a). The concern that paternalistic approaches be carefully controlled has also been voiced frequently in recent years, as nursing home abuses have received such recurrent publicity as to become a kind of nasty social cliché. Congressman William S. Cohen responded with a proposed "nursing home patients' bill of rights" and, though sonorous phrases by themselves can hardly be effective, several of his points may well be useful as guides to future, more substantive efforts. For example, Cohen would guarantee the patient's "right to independent personal decisions and knowledge of available choices," of his right "to be fully informed of his medical condition and proposed treatment, and to participate in the planning of all medical treatment, including the right to refuse medication and treatment and know the consequences of such actions" (Cohen, 1977).

The preference for freedom, in any event, is clearly not a choice that need be imposed on the aged, for the impressive blossoming of "gray power" has demonstrated that many elders are willing and able to seize it for themselves. Ever since the public almshouse and, much later, the passage of the Social Security act, older people have often been dependent upon government, but with Medicare, food stamps, supplemental security income, and a multiplicity of other programs, this dependency has grown very strikingly. The elderly, meanwhile, have begun to organize with extraordinary effectiveness, and have lobbied successfully for the Older Americans Act to fund service programs for the aged, the Pension Reform Act to protect private pension plans, the Age Discrimination in Employment Act to prohibit mandatory retirement before age 70, and so on. Moreover, the projected growth in numbers of the elderly (they currently comprise about 11 percent of the population and by the year 2030 will probably exceed 20 percent) and the real growth of their organizations (the American Association of Retired Persons, for instance, zoomed from 3 million members in 1971 to 11 million in 1977) suggests that far more aggressive action may be expected in the future. Successes, in addition, will doubtless not mollify dissatisfied elders, but instead may

persuade them to redouble their efforts in pursuit of goals newly perceived as politically feasible. Paternalistic policies, as a consequence, will likely come under increasing, and increasingly effective, attack from precisely those whom the policies are intended to help.

It is easier to state these policy caveats than to detail the actions that they require, but that they should on this account be ignored no sophisticated observer would be so brash as to maintain.

Conclusions

“Paternalism” typically is greeted with all the enthusiasm of a contagious disease striking a remote island people. So powerful, in fact, are the word’s pejorative connotations that in common speech it performs double duty: it describes a phenomenon and signals our distaste for it at the same time. But this double duty, instead of increasing efficiency, has proven exorbitantly expensive, and the cost is paid in terms of vagueness, ambiguity, unexamined assumptions, and outright confusion. If it is naive to elevate paternalism to the overriding principle governing society’s relations with the aged, it is folly to renounce its use forever, too.

Viewed from one perspective, the paternalist would remind us, paternalism is by no means the unalloyed evil that it is generally assumed to be. Instead, it is often a realistic response to the elder’s preference for happiness over freedom in a world dominated by forces too vast and complicated for him to manage himself. Based on altruism and propelled by real public needs, paternalism per se is neither morally repugnant nor politically unpopular. This, of course, is not to argue for an unqualified paternalism, for such a system presupposes a ruling elite divinely endowed with virtue and knowledge, a kind of contemporary reincarnation of Plato’s philosopher-kings. But, by the same token, it seems clear that paternalism properly has an important if limited role to play in modern democracies and, indeed, although it is rarely defended with candor, that it actually plays such a role. Naturally, reasonable men of good will may differ on the advisability of specific paternalistic policies, but opposition to paternalism as such appears unjustified.

Yet, granting the utility of a limited paternalism for the aged, the problem remains of how to confine it within its proper borders. These

borders, of course, are entirely abstract and represent a human effort to impose order upon a disorderly nature, and, as such, they reflect to some significant and irreducible degree arbitrary judgments. Participants and observers, therefore, will certainly disagree as to where the lines should be drawn, and, lacking an infallible impersonal mechanism or objective arbiter to whom such disputes might be brought, will have recourse only to the legislative or bureaucratic political process, a process in which rationality is but one of many inputs (Diesing, 1962: chapter 5).

The borders, in any event, must be marked not with fences but with words, and terminological agreement may not end the combat but merely dispatch it to another more legalistic setting. A consensus on a broad and grandiloquent statement of principle, for instance, might buckle beneath the weight of specific circumstances, as opposing sides draw opposing inferences from the same phrases. But by the same token, a consensus on a narrow and detailed regulation may become useless, as its specificity robs interested parties of the discretion necessary to adjust to an unanticipated future by condemning them to examine myopically the minutiae of the moment. Consensus on a matter as complex and value-laden as the relations of paternalism and the aged is hampered by other factors, too, such as the extreme heterogeneity of the population, the weakening of society's traditional moral authorities, and the rather technical nature of the problem.

Moreover, even if criteria setting the limits of paternalism could be agreed to, enforcing them would be no easy matter. The basic fuel for the democratic system is self-interest (Schumpeter, 1950:269-283), and it is exactly this quality that paternalism denies. The elders affected presumably would be ill-suited to press their own claims, thereby eliminating the incentive for self-interested politicians and pressure groups to prevent abuse. A widespread negative stereotype of the affected aged would militate against the growth of more than episodic public sympathy. The watchdog role, then, might well be left with a small band of interested altruists, a class often deficient in skills, stamina, and funds. Furthermore, these altruists, by seeking to safeguard the aged from official paternalism, would themselves be acting paternalistically. But since they are imperfect, too, presumably a third set of paternalists would be needed to protect the aged against abuse from the second set. By this stage, one realizes that the logic of the solution has directed him into an infinite regress, which itself must

constitute something of a refutation. The prospect of countless competing paternalists, resembling a bizarre Pirandellian parody of Madisonian checks and balances, is as unworkable as it is absurd. The possibility that geriatric services may, by their nature, recruit especially heavily from persons already paternalistically inclined, or that geriatric training may itself foster this attitude, may exacerbate an issue already overburdened with problems.

In particular contexts, the problem of setting boundaries to paternalism is basically ethical, which is to say that it rests upon values that can be defended but never indisputably confirmed or refuted. As a realistic matter, paternalistic decision makers probably would talk of the necessity of balancing the elder's rights against his limitations: his interest in his own autonomy against society's interest in protecting him. Thus, even thoughtful analysts tend to fall back on an unexamined utilitarianism, according to which acts of paternalism could be justified by weighing the evil prevented against the evil committed by violating the patient's rights. But "balancing" is such a treacherously familiar metaphor that it lures us into believing that it supplies a workable, common-sense approach to the problem. In fact, precisely the reverse is the case. For "balancing" arouses the vivid image of a scale, in which the relative weights of two items are plainly determined by the uniform and impersonal force of gravity, but in "balancing" sides of an argument no objective force like gravity is available. Instead, the metaphor is invoked to conceal the inner psychological mechanics of choice, mechanics that are very poorly understood but almost certainly involve large elements of the irrational and the arbitrary. The illusory nature of the "balancing" metaphor is compounded by the fact that it may obscure a vital conflict as to what the contending "weights" are (e.g., in addition to the elder's interest in his own autonomy and society's interest in protecting him, he may have an independent interest in a society with strong protective impulses and society may have an independent interest in maximizing autonomy among its aged). Balancing, in this way, may contribute to blinding the decision maker to problems and opportunities he might otherwise have noticed.

Balancing, further, is so subjective an approach that it supplies little with which a wavering decision maker can defend himself against aggressive sources of influence. Politicians, officials, families, and elders all need rigid principles to provide them with something sturdy

on which to lean. The gelatinous balancing approach, by leaving them to fall back upon precedent, personal values, current social thought, and so on, leaves them vulnerable indeed, for none of these offers a clearly drawn and insurmountable barrier against cynical or well-intentioned governmental abuse.

The paternalist concedes the difficulty, but denies its paralyzing consequences. For him, it is simply yet another variant on the classic political puzzle identified nearly two centuries ago by James Madison (n.d.:339): "You must first enable the government to control the governed; and in the next place oblige it to control itself." This is the fundamental, ever-present problem of free societies, and it will not submit to slogans, formulas, or wishful thinking, but must be confronted as part of the uncertain and imprecise combat of daily life. But this recognition of the possibility of abuse leaves us not blindly hostile to power and government per se—only the irremediably juvenile have failed to absorb the great Hobbesian lesson on the necessity of authority—but instead sensitive to noting failures where we see them and endeavoring to correct them.

The logic of paternalism, however, by its very nature handicaps such efforts at vigilance. Its refusal to require the consent of the subject, normally the first line of defense against wrongdoing in phenomena as disparate as political democracy and human experimentation, undercuts our own authority to protect ourselves. If we grant officials the right to interfere in our lives for our own good in some instances, how can we stop them from interfering in others? After all, the assumption is that they know best, and not we. The paternalistic approach to the problems of the aged, therefore, emerges as a weapon not wholly of good or evil, but rather like a double-edged sword that can damage either side with a chilling impartiality.

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