The Problem of Paternal Motives

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In this article I assess the ability of motivational accounts of paternalism to respond to a particular challenge: can its proponents adequately explain the source of the distinctive form of disrespect that animates this view? In particular I examine the recent argument put forward by Jonathan Quong that we can explain the presumptive wrong of paternalism by relying on a Rawlsian account of moral status. I challenge the plausibility of Quong's argument, claiming that although this approach can provide a clear response to the explanatory challenge, it is only successful in doing so when it relies on the strength of its rival: the argument from personal autonomy. In doing so I illustrate that such responses are conceptually dependent on an account of respect for persons, and thus much of the relevant controversy is actually disagreement over how we respect other individuals.

I. INTRODUCTION

Liberals have traditionally been concerned that the state may possess a tendency to treat citizens as incompetent by interfering in their lives with the intention to promote their well-being. Though such interferences may be motivated by good intentions, liberal critics argue that paternalistic interferences are necessarily disrespectful in some important normative sense. Since the government has good reason to avoid treating citizens disrespectfully, liberals argue that state interferences of this sort require a powerful justification. The onus lies with those who interfere. This, in short, is the background to the problem of paternalism. As Peter de Marneffe asserts, 'Paternalism matters, then, because the moral limits to government authority over our choices matter.'[1]

The assumption within the common liberal response to this problem is that we can explain how such interferences are disrespectful, even though they are motivated by good intentions. In trying to explain this sense of disrespect generated by paternalism – the *infantilizing* aspect of the intervention – it has become common to trace the fault back to the motive of the act.[2]

[1] Peter de Marneffe, 'Avoiding Paternalism', *Philosophy and Public Affairs* 34 (2006), pp. 68–94, at 76.

[2] For examples of the motivational interpretation of paternalism, see John Kleinig, *Paternalism* (Manchester, 1983) p. 38; Donald Van De Veer, *Paternalistic Intervention: The Bounds of Benevolence* (Princeton, 1986), pp. 4–5; Joel Feinberg, *Harm To Self* (Oxford, 1986) pp. 23–4; Seana Valentine Shiffrin, 'Paternalism, Unconscionability Doctrine and Accommodation', *Philosophy and Public Affairs* 29 (2000), pp. 205–50, at 215; Douglas N. Husak, 'Legal Paternalism', *The Oxford Handbook of Practical Ethics*,

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The Motivational Approach: Paternalistic interferences are actions intending to promote the well-being of an individual motivated by a negative judgement about her ability to advance her own well-being.

I posit that this definitional strategy relies on a separate argument regarding respect for persons to explain why such actions are disrespectful. The field of candidates is broadly divided between two contrasting accounts that are segregated by their differing explanations of the grounding of this disrespect. In this article I argue that the motivational approach can answer the specific worry posed by de Marneffe – that such models cannot explain the origin of the disrespect inherent in the motive of a paternalistic act, by adopting either of these accounts. However, when comparing the two viable candidates to ground this explanation, we may have reason to prefer the traditional argument from autonomy over its recently suggested rival. My argument has five parts. In section II I detail de Marneffe's initial worries regarding motivational accounts of paternalism. In section III I respond to this challenge by exploring a plausible response recently proposed by Jonathan Quong, who argues for a view based on a Rawlsian interpretation of moral status. However this position challenges the definitional accuracy of previous motivational accounts. Thus I discuss the plurality of plausible motivational accounts and outline the reasons we might have for adopting these different approaches. In section IV I review the strength of the argument that moral status construed in a Rawlsian fashion can ground the presumptive wrong of paternalism. In section V I argue that we have reason to prefer its competitor: the traditional argument for autonomy. Finally, in section VI I conclude by exploring two further implications of my arguments.

II. DE MARNEFFE'S CRITIQUE

In his 2006 article *Avoiding Paternalism*, Peter de Marneffe assesses the prospects for the project of reconciliation. That is the project of 'seek[ing] to show that no widely supported policy is *really* paternalistic, by identifying a good nonpaternalistic justification for the seemingly paternalistic policies that most of us endorse'.[3] In doing so he characterizes two methods of defining an act

ed. H. LaFollette (Oxford, 2003), pp. 387–412, at 389; de Marneffe, 'Avoiding Paternalism' p. 70; Richard H. Thaler and Cass R. Sunstein, *Nudge: Improving Decisions about Health, Wealth and Happiness* (London, 2009), pp. 5–6; Jonathan Quong, *Liberalism without Perfection* (Oxford, 2011), pp. 80–3. This is not the only possible explanation of the harm of paternalistic interference. For a brief survey of alternatives, see Quong *Liberalism without Perfection*, pp. 74–80.

[3] de Marneffe, 'Avoiding Paternalism', p. 68.

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as paternalistic: *motivational* and *justificatory*.[4] He defines the motivational interpretation of paternalism as follows: 'a policy that limits a person's choices is paternalistic toward that person if and only if the government adopts this policy because those in the relevant political process count the fact that it will benefit this person as a reason in its favour'.[5] He rejects this account of paternalism because of its poor fit with the project of reconciliation.[6] Instead a *hybrid* account of paternalism is proposed with the belief that it balances the strengths and weaknesses of the motivational and justificatory accounts.[7] This conclusion mirrors de Marneffe's own interest in the project of reconciliation and not our interest in assessing the motivational account. Those unsure of the benefits of this project may instead be inclined to interpret the tension identified as a reason to reject the project of reconciliation. Indeed, as I discuss in the conclusion of this article, we may have good reason to accept the motivational account and thus reject the project of reconciliation.

As an example of a motivational account of paternalism, de Marneffe identifies Seana Valentine Shiffrin's well-known definition[8] of paternalism, which has the following four criteria. Paternalism by A towards B may be characterized as behaviour

(a) that is aimed to have (or to avoid) an effect on B or her sphere of legitimate agency;
(b) that involves the substitution of A's judgement or agency for B's;
(c) that is directed at B's own interests or matters that legitimately lie within B's control;
(d) that is undertaken on the grounds that compared to B's judgement or agency with respect to those interests or other matters, A regards her judgement or agency to be (or as likely to be), in some respect, superior to B's.

[4] While de Marneffe contrasts the two and argues that both suffer from weaknesses, it is only motivational accounts that concern us here.

[5] de Marneffe, 'Avoiding Paternalism', p. 70.

[6] de Marneffe, 'Avoiding Paternalism', pp. 70–1.

[7] de Marneffe argues that the project of reconciliation actually presupposes a hybrid account of paternalism that is defined as follows: 'a government policy is paternalistic toward A if and only if (a) it limits A's choices by deterring A from choosing to perform an action or by making it more difficult for A to perform it; (b) A prefers A's own situation when A's choices are not limited in this way; (c) the government has this policy only because those in the relevant political process believe or once believed that this policy will benefit A in some way, and (d) this policy cannot be fully justified without counting its benefits to A in its favour' (de Marneffe, 'Avoiding Paternalism', pp. 73–4). Given that we are interested in motivational accounts and not the project of reconciliation, this definition need not concern us too much.

[8] See Shiffrin, 'Paternalism, Unconscionability Doctrine and Accommodation', p. 218.

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Shiffrin explicitly identifies the problematic characteristic of such acts as follows:

> The essential motive behind a paternalist act evinces a failure to respect either the capacity of the agent to judge, the capacity of the agent to act, or the propriety of the agent's exerting control over a sphere that is legitimately her domain . . . As such, it directly expresses insufficient respect for the underlying valuable capacities, powers, and entitlements of the autonomous agent.[9]

This model faces two prominent critiques. The first, pressed by de Marneffe, questions whether paternalistic motives are inherently insulting:

> When a government official adopts a policy that someone does not want in order to benefit this same person, she assumes this person has an interest in this policy, or that there is a good reason for this person to prefer his own situation under this policy. In supporting an unwanted policy for a paternalistic reason, government officials therefore support this policy from the same general concern to protect or advance individuals' interests that might properly motivate them to support any government policy. What is insulting about this?[10]

The challenge can be stated as follows:

> *The Explanatory Challenge*: Interventions motivated by the intention to promote another's well-being may be considered problematic *if* such acts are achieved through morally problematic means (coercion, deception, manipulation, etc.). However the motivation itself cannot be a source of disrespect when taken solely on its own merits.

If the explanatory challenge is upheld, then the motivational approach to defining paternalism appears mistaken. De Marneffe rejects the explanation of the infantilizing aspect of paternalism offered by Shiffrin as unpersuasive, alongside a number of other potential explanations.[11] That it can be explained by the process of substitution of judgement within the intervention is rejected because governments commonly do this in non-paternalistic situations. That it can be explained by appeal to the area of the paternalisee's agency contravened by the intervener is rejected as this fails to describe the (insulting) manner in which the contravention takes place. That it can be explained by the failure of personal judgement attributed to the paternalisee is rejected because it is unclear why making judgements about what is best for oneself is more fundamental than the ability to judge what is best all things considered. An explanation from the sense of insult

[9] Shiffrin, 'Paternalism, Unconscionability Doctrine and Accommodation', p. 220.
[10] de Marneffe, 'Avoiding Paternalism', p. 77.
[11] See de Marneffe, 'Avoiding Paternalism', pp. 77–81.

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felt by the paternalisee is rejected because a person may be mistaken in his perceptions of the state's actions. De Marneffe also denies that it can be explained by the disrespectful judgement of incompetence attributed to the paternalisee or the air of superiority assumed by the intervener (a view he attributes to Elizabeth Anderson).[12] This view is rejected because errors in reasoning and judgement are common and so to acknowledge this is simply to acknowledge that an individual's rationality is imperfect.

Finally, and most importantly for this argument, de Marneffe rejects explanations that rely on the violation of the moral status of the paternalisee because the success of this explanation is contingent on a further argument regarding the strength of the paternalistic reasons given by the intervener to justify his act. It is only if such reasons are always too weak to justify the interference that 'an official ... acting on these reasons would thereby show an objectionable disregard for a person's legitimate interests in liberty'.[13] This particular rejection is problematic for the motivational interpretation because, as I discuss in the next sections, the most suitable response to the challenge claims that the position *should* rely on a claim of moral status to explain the presumptive wrong of paternalism.

III. A RESPONSE TO DE MARNEFFE AND A FURTHER CHALLENGE

We can find a compelling answer to the explanatory challenge in recent arguments provided by Jonathan Quong, who argues that the wrong of paternalism *can* be explained by an argument from the moral status of the paternalisee.[14] This argument employs a specifically Rawlsian conception of the person based on the ideal of citizens as free and equal through their possession of the two moral powers.[15] Quong contends

[12] See Elizabeth Anderson, 'What is the Point of Equality?', *Ethics* 109 (1999), pp. 287–337, at 301–2 and 330.

[13] de Marneffe, 'Avoiding Paternalism', p. 81.

[14] See Quong, *Liberalism without Perfection*, pp. 100–6. Quong claims that his argument does not contradict de Marneffe's previous rejection of arguments from moral status because de Marneffe is searching for grounds for an absolute prohibition against paternalistic state action, whereas Quong is merely seeking to explain the presumptive wrong that characterizes paternalistic acts. To contradict Quong, de Marneffe would have to go further to show not only why arguments from the moral status of the paternalisee cannot form the basis of an absolute prohibition on paternalistic acts, but also why such an argument cannot form the basis of a more modest (presumptive) wrong. Given that Quong persuasively argues the case for his interpretation on these more moderate grounds, it is difficult to see how this stronger claim could be made without denying the importance of moral equality.

[15] See John Rawls, *Political Liberalism* (New York, 1993), p. 19, and John Rawls, *Justice as Fairness A Restatement* (Cambridge, Mass., 2001), pp. 18–24.

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that the presumptive wrong of paternalistic interventions stems from their violation of this conception of the person: 'paternalism involves one person or group denying that another person or group has the necessary capacity, in a given context, to exercise the second of the two moral powers: the capacity to plan, revise, and rationally pursue their own conception of the good'.[16] This forms the argument from moral status:

> *The Argument from Moral Status*: Since paternalistic acts deny the paternalisee the capacity to exercise the second moral power, they treat the paternalisee contrary to the manner in which the moral status attributed to them demands.

However, the supporter of Shiffrin cannot simply employ this argument to defend the customary motivational definition because Quong's position raises a seperate challenge for Shiffrin's account.

> *The Definitional Challenge*: Shiffrin's original definition mis-specifies the definition of paternalism because it relies on defining the concept according to the intervention contravening the paternalisee's 'legitimate sphere of control'. By relying on this element, the account is both over- and under-inclusive at the same time.

The definition is over-inclusive because it misidentifies the target of paternalistic intervention in cases involving interventions to protect a third party. Consider the following example:

> Suppose, for example, I intervene to stop a parent from punishing his or her child because I believe my judgement is superior to the parent's, and thus my actions will better promote the child's well-being. On Shiffrin's account I have acted paternalistically *with regard to the parent*, even though my aim was to promote the child's well-being.[17]

Quong believes that this stretches the concept beyond our common linguistic intuitions. On his reading of third-party cases the intention to promote another's well-being acts as a marker for who is being paternalized. Because it is the child's well-being we are attempting to promote, it is strange to say, as Shiffrin's account seems to, that we are acting paternalistically towards the parent. If we employ her account, paternalism proliferates to include many common disagreements between two individuals regarding their actions towards a third party.

At the same time Quong accuses the definition of being under-inclusive because it fails to account for interventions motivated by a paternalistic intent, but that are not directed at things legitimately

[16] Quong, *Liberalism without Perfection*, p. 101.
[17] Quong, *Liberalism without Perfection*, p. 79.

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within the paternalisee's sphere of control. Such cases include a refusal to aid another who requires something from *your* legitimate sphere of control to accomplish her act. Quong argues that such things can be withheld for paternalistic reasons and thus should be considered paternalistic. However these cases are not consistent with Shiffrin's four criteria.

Because of this tension in the original definition, Shiffrin's account is rejected in favour of what Quong calls the *judgemental* definition.[18] On this view paternalism is defined as any act where

1. Agent A attempts to improve the welfare, good, happiness, needs, interests or values of agent B with regard to a particular decision or situation that B faces.
2. A's act is motivated by a *negative judgement* about B's ability (assuming B has the relevant information) to make the right decision or manage the particular situation in a way that will effectively advance B's welfare, good, happiness, needs, interests or values.

The judgemental definition is similar in character to Shiffrin's four-stage motivational account of paternalism, but it is tailored to achieve greater extensional accuracy by capturing a different set of interventions under the label of paternalism. Quong achieves this by stripping away references to the methodology of the intervention. Thus, the account is a purer motivational account of paternalism because it specifies that such a motive must be present to motivate the wrongful intervention, whilst leaving the description of the act relatively content-less.

Which of the definitions we ought to accept will depend on how inclusive we consider an accurate account of paternalism should be. If one favours Shiffrin's reliance on autonomy and spheres of agency, a partial defence can be made. To defend the earlier account from the claim of under-inclusiveness a proponent of her view might further specify the concept of a legitimate sphere of control. An option here is to define the spheres according to the possession of sufficiently weighty interests of the paternalisee. One might claim that such interests generate a weighty claim that allows us both to identify and to ground said spheres of control. Such an argument mimics the interest theory of rights to provide further specification and support for the argument, allowing us to explain how individuals may be subject to paternalism if we withhold something from them, for example. However the position is still arguably over-inclusive in third-party cases.

[18] See Quong, *Liberalism without Perfection*, p. 80.

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The strengths and weaknesses of the definitions range over both their ability to explain the source of disrespect, and their extensional accuracy. Because of their structure, each account is compatible with the argument from moral status. However, as I will argue in the next section, this may not be the strongest account of the wrongfulness of paternalism.

IV. MOTIVATIONAL ACCOUNTS AND THEIR CONCEPTUAL DEPENDENCY

So what are we to make of the argument from moral status? Given its modest goal of explaining the presumptive wrong behind a paternalistic intervention, the argument appears persuasive. It grounds the disrespect shown towards the subject in either (or both) of two distinct wrongs. The first is comparative, with 'one party treating another as having *inferior* status'.[19] The second wrong is non-comparative, as paternalistic acts 'involve treating an adult as if he or she (at least temporarily) lacks the ability to rationally pursue his or her own good'.[20] These two need not necessarily coincide, though they commonly do so. The second condition must be a necessary condition for paternalistic acts characterized by the motivational account as it is a consequence of acting whilst motivated by a negative judgement regarding the subject's ability to pursue his own good.[21] Accordingly I take it that the success of an explanation of the presumptive wrong of paternalism depends on its success in explaining this non-comparative wrong.

The argument from moral status contrasts with an alternative: *the autonomy argument*.[22] In what remains of this article I will show that Quong's argument against the rival to his own position is far from conclusive. Although the argument correctly identifies an answer to the explanatory challenge, it fails to be unique as Quong does not preclude other accounts from providing a similar answer. Indeed I argue

[19] Quong, *Liberalism without Perfection*, p. 101.

[20] Quong, *Liberalism without Perfection*, p. 101.

[21] The comparative wrong, however, will only occur when the negative judgement contains an aspect of superiority (i.e. 'I know better than you do'). One could be motivated by a negative judgement and consistently believe that both oneself and the paternalisee were equally subject to this failing. Indeed this personal insight into the failing and external perspective of another's behaviour may be the fact that leads us to identify the mistake in the paternalisee's behaviour and act to correct it. This pattern seems to fit the short example Quong provides; see Quong, *Liberalism without Perfection*, p. 101.

[22] Quong also contrasts his argument with J. S. Mill's argument that it is the individual who possesses the most privileged epistemic insight into his goals and plans best, and thus any interference with the individual's pursuit of her good is surely wrongful and in need of justification. See J. S. Mill, *On Liberty* (Oxford, 1991 [1859]), pp. 84–5 and 92–3.

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that the autonomy argument captures the non-comparative wrong of paternalism more accurately.

The autonomy argument explains the wrong of paternalism through a focus on the wrongfulness of contravening the autonomous choice of an agent. Such a view rests on the claim of independent value that is attached to the autonomous selection of a goal:

> Even if someone is going to make a poor decision that will have negative consequences for his or her own well-being understood in the narrow sense, if the value of autonomous choice is generally weightier than other aspects of someone's well-being, then paternalism will be at least presumptively wrong. And if respecting autonomy is so important that it warrants the protection afforded by a moral right, then paternalism will often be unjustified.[23]

This view is intuitive to many liberal theorists. However, Quong rejects it for two reasons. First, he finds the argument overly permissive as it licences paternalistic interferences to promote autonomy, and second, the argument rests on a controversial claim regarding the intrinsic value of autonomous choice. The reasons against these characteristics stem from his adoption of a specifically Rawlsian conception of respect for persons (as free and equal citizens).

Quong reaches his conclusions in favour of the argument from moral status by capturing the relational dynamic of paternalism. The presence of the relevant motive characterizes the actions of the paternaliser towards the paternalisee, and inherent in these actions is a certain wrong perpetrated against the moral status of the subject. Acts that deny the respect demanded by the moral status of the paternalisee are bound to be disrespectful. Understanding that respect for persons acts as a lynchpin in the argument is key to explaining the attractive simplicity of the motivational account as the approach allows the presumptive wrong of the intervention to be explained in a similar fashion to how it is defined.

The drive to both restrict the scope of permissible paternalistic acts and to remove controversial value claims from the explanation of why such acts are wrong follows from Quong's commitment to a wider Rawlsian project.[24] The plausibility and attractiveness of the argument from moral status thus depends on the validity of appealing to his Rawlsian intuitions (and the reasons we have for interpreting moral status in this manner) when considering paternalism. To agree with Quong about the strengths of the argument from moral status, we must agree with his wider normative framework. Specifically we must share

[23] Quong, *Liberalism without Perfection*, p. 98.

[24] Indeed the main strength that Quong claims his account possesses (aside from cohering with his previously offered judgemental account of paternalism) is its lack of controversial value claims; see Quong, *Liberalism without Perfection*, p. 102.

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his Rawlsian account of respect for persons – that citizens should be treated as free and equal because they possess the two moral powers.

V. THE BASIS OF RESPECT FOR PERSONS

As it is presented, the argument from moral status rests upon Rawls' view of a citizen as free and equal in a specific sense

> [T]he basic idea is that in virtue of their two moral powers (a capacity for a sense of justice and for a conception of the good) and the powers of reason (of judgement, thought, and inference connected with these powers), persons are free. Their having these powers to the requisite minimum degree to be fully cooperating members of society makes persons equal.[25]

For the argument from moral status to be an accurate explanation of the wrong of paternalism, a case needs to be made for both (i) employing this interpretation of the person to derive principles of respect for the status of persons, and (ii) that such principles are the most appropriate to be employed in characterizing paternalistic interventions. This is crucial for Quong's claim because the argument from moral status can be formulated in a number of ways depending on how one construes respect for persons. The problem arises because the second moral power is related to the individual's autonomous pursuit of the good life. Because of this one can explain much of the argument from moral status in terms of respect for another's autonomy, posing a problem for the distinctiveness of the argument. I take it that if it can be shown that the non-comparative wrong of paternalism[26] can be explained in terms of autonomy then the contrast between the two arguments is weakened severely. Further, if it can be shown that an argument requiring a controversial value claim better captures the wrong of paternalism, we may have reason to reject the argument from moral status in favour of its rival.

This will require an account of respect for persons grounded in an argument from the value of personal autonomy. At this point we must answer two related questions. The first is whether personal autonomy can ground an account of respect for persons, and the second is whether it can better explain the wrongs of paternalism under the motivational account. I will take these two questions in turn.

To consider whether personal autonomy can ground an account of respect for persons we must first clarify what we mean by personal autonomy and respectful actions, and the basis for the compatibility between the two concepts. Personal autonomy describes an individual's

[25] Rawls, *Political Liberalism*, p. 19.

[26] This is the most important harm, given that it is necessary to paternalistic acts under a motivational definition.

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ability to competently make authentic decisions.[27] If these two conditions are sufficiently developed we may call an individual an autonomous agent. Respect for something is a form of regard towards something of value.[28] As Robin Dillon explains, we respect something when 'we experience the object as constraining our attitudes and actions, and when we respect something we heed its call, accord it its due, acknowledge its claim to our attention.'[29] To ground a moral claim restricting our behaviour towards others, personal autonomy must be valuable enough to ground what Stephen Darwall calls *moral recognition respect*:

> [S]ome fact or feature is an appropriate object of respect if inappropriate consideration or weighing of that fact or feature would result in behaviour that is morally wrong. To respect something is thus to regard it as requiring restrictions on the moral acceptability of actions connected with it. And crucially, it is to regard such a restriction as not incidental, but as arising because of the feature or fact itself. One is not free, from a moral point of view, to act as one pleases in matters which concern something which is an appropriate object of moral recognition respect.[30]

This is the role of the value claim that troubles Quong. Historically, arguments derived from Kant[31] have been made for this level of importance to be given to autonomy.[32] If such an argument can be identified successfully and it can be convincingly shown that autonomy is sufficiently valuable, then autonomy may act as the basis of a moral status claim. This status will constrain our actions towards those who possess it, preventing us from treating them in certain ways (thus explaining the wrong of paternalism). Several plausible interpretations can be identified.

[27] The concept of authenticity is traditionally thought to contain the Razian criteria of independence and a sufficient range of options; see Joseph Raz, *The Morality of Freedom* (Oxford, 1986), pp. 389–90. However, one can also argue that it contains a wider range of conditions, for example an information requirement; see Ben Colburn, *Autonomy and Liberalism* (New York, 2010), pp. 94–8.

[28] Arguing for the appropriateness of an account of respect for persons is notoriously tricky. For the purpose of this article I will assess whether a balance can be struck between an account's ability to capture some core normative truth about what a respectful act is meant to achieve and how well the account fits in with our wider normative framework. If an account can achieve this balance satisfactorily then it signals its suitability as an account of respect for persons.

[29] Robin S. Dillon, 'Respect: A Philosophical Perspective', *Gruppendynamik und Organisationsberatung* 38 (2007), pp. 201–12, at 203.

[30] Stephen Darwall, 'Two Kinds of Respect', *Ethics* 88 (1977), pp. 36–49, at 40.

[31] See Immanuel Kant, *Groundwork of the Metaphysics of Morals* (Cambridge, 1997 [1785]).

[32] Note here that I do not mean to conflate Kantian moral autonomy with its more substantive counterpart – personal autonomy. Instead here I am referencing the employment of a Kantian argument for treating autonomy (of any kind) as valuable in this fashion.

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Quong's position rests on a broadly Rawlsian view of the person. By attributing the two moral powers to individuals, Rawls effectively prohibits principles other than those 'that the parties would acknowledge in the original position to protect themselves against the weakness and infirmities of their reason and will in society'.[33] This ensures that the capacity to have, to revise and rationally to pursue a conception of the good acts to prohibit paternalistic interventions (against individuals who possess the capacity) that cannot be justified to the individual as a free and equal citizen. Paternalistic interventions are thus disrespectful and presumptively wrong because they treat citizens as if they do not possess this crucial component of moral personhood. This political conception of the person[34] (and the treatment of his or her status) can trace its roots back through Rawls's project of Kantian constructivism.[35] Though this is not the strongest anti-paternalistic reading of Kant this conception of the person does prohibit many paternalistic interventions.

However, one need not interpret moral status as prohibiting paternalistic interactions if such actions can promote autonomy. Another Kantian reading of respect for the status of persons, suggested by Joseph Raz, makes such an argument.[36] The Razian reading of Kantian respect rejects the *political* interpretation that Rawls embraces, arguing instead that we respect value simpliciter. Raz argues that correctly responding to value has three stages – the acknowledgement of value, its preservation and appropriate engagement with it.[37] When we respect persons, we respect them as sources of value. If autonomy is also valuable[38] then an appropriate method of engaging with the value of personhood may be the promotion of personal autonomy. The compatibility of the two valuable phenomena leads to an account of respect for persons that does not prohibit paternalistic interferences that promote autonomy. Such an account, however, is incompatible with the Rawlsian character of its rival because it requires the comprehensive value claim that living an autonomous life benefits an individual's well-being. This explains

[33] John Rawls, *A Theory of Justice* (Cambridge, Mass., 1971), p. 249.

[34] See Rawls, *Political Liberalism*, pp. 29–35, and John Rawls, *Justice as Fairness*, pp. 14–38.

[35] John Rawls, 'Kantian Constructivism in Moral Theory', *John Rawls: Collected Papers*, ed. S. Freeman (Harvard, 1999), pp. 303–58.

[36] See Joseph Raz, *Value, Respect and Attachment* (Cambridge, 2001), pp. 124–75.

[37] Raz, *Value, Respect and Attachment*, pp. 161–4.

[38] Raz has famously argued that it is a constituent part of the good life in liberal society; see Raz, *The Morality Of Freedom*, pp. 378–95. For an alternative universal reading of the value of personal autonomy, see Tom Hurka, 'Why Value Autonomy?', *Social Theory and Practice* 13 (1987), pp. 361–82.

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Quong's worry regarding the over-permissiveness of the argument from autonomy in justifying interventions to protect individuals' capacity to make autonomous choices.[39] This reading of Kant differs from the Rawlsian interpretation by allowing paternalistic interventions that promote autonomy (an appropriate engagement of a valuable practice by an agent), and prohibiting acts that deny this relationship (a failure to acknowledge, preserve or engage with the value present in autonomous agency).

Each account employs a different criterion that demands respect, either a citizen's status as free and equal or a citizen's capacity for personal autonomy. Further, each account can plausibly explain the presumptive wrong of paternalism in a way compatible with the motivational account. But troublingly for the argument from moral status, respect for autonomy can explain the specific wrong of paternalism in a similar fashion. This is because when paternalistic interventions show disrespect for the paternalisees by denying their 'capacity to plan, revise, and rationally pursue their own conception of the good', thus 'treating an adult as if he or she (at least temporarily) lacks the ability to rationally pursue his or her own good',[40] such interventions fail to respect individuals in a manner that their status as agents capable of personal autonomy demands. Thus the appeal to moral status relies on a specific interpretation of the role personal autonomy plays in preventing paternalistic intervention.

Further, we may have reason to question the suitability of this Rawlsian conception of the person as a basis for explaining the presumptive wrong of paternalism. If one holds to the Rawlsian interpretation of respect for persons, the capacity for personal autonomy acts as a precondition of moral personhood, but the extent of an individual's personal autonomy above this threshold has no impact on her status. Possessing the capacity for personal autonomy is part of being a free and equal citizen, and thus is part of a package of characteristics that act as a constraint against (paternalistic) interferences that are not acceptable to free and equal citizens.

This threshold approach is a weakness of the argument from moral status because such a treatment views interferences intending to promote the autonomy of the subject as problematic in the same sense as other interferences. By viewing the autonomy argument's acceptance of such interferences as overly permissive,[41] Quong's argument misunderstands the relationship between paternalism and autonomy. The moral status of the citizen will only succeed in

[39] Quong, *Liberalism without Perfection*, pp. 98–9.
[40] Quong, *Liberalism without Perfection*, p. 101.
[41] Quong, *Liberalism without Perfection*, pp. 98–9.

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prohibiting paternalistic interferences to the extent that it is grounded in the capacity for personal autonomy. But because the argument from moral status relies on Rawls's view of the person, it employs a low threshold of personal autonomy to ensure that as many citizens as possible can be said to possess the moral powers. This prevents personal autonomy from playing its full role in explaining the wrong of paternalism, resulting in an oversimplified account of the wrong of paternalism. Though the Rawlsian position is right to give autonomy a central place, it misinterprets the *extent* to which personal autonomy matters, only employing its presence (by using a low threshold system) as an indicator of the wrong and thus failing to acknowledge the larger role it can play in identifying wrongful interferences.

Consider how the moral status view treats interventions intended to promote autonomy. Given that it is explaining the *presumptive* wrong of paternalism, its proponents are committed to accepting that interventions to promote autonomy may be justified all things considered. However such interventions are presumptively wrong in the same fashion as other paternalistic acts (intended, for example, to increase the amount of art to which the paternalisee is exposed). On this view, the special dispensation we may give to acts intending to empower the subject and improve his ability to live his life as he wants in the future follows the identification of the presumptive wrong – at the later stage of justification. This seems unintuitive when compared to the autonomy argument's ability to incorporate this dispensation at the stage of identifying the wrong. Employing the autonomy account, such acts will be vindicated at the earlier stage of identifying the wrong, because the interference constitutes no wrong through its intention to promote (not diminish) the individual's personal autonomy. Employing the Rawlsian account, such interferences would be seen to contravene the moral status of the individual (as they impact on the second moral power possessed by those above the threshold), even though they may be designed to help foster exactly those capacities relevant to the second moral power.

This difference in treatment is rooted in the difference between the status of a free and equal citizen and the status of an autonomous agent. According to the autonomy argument, the interferences are constrained by the subject's status as an autonomous agent. Thus the full range of capacities related to personal autonomy possessed by the individual become relevant to the argument, and not merely the presence of autonomy employed as a block on intervention. It should matter how far the subject is beyond the threshold that Rawls takes as constitutive of moral status, with autonomy instead acting as a defeasible consideration in favour of not interfering. If the interference can be proved to pose no threat of restricting or undermining the

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paternalisee's autonomous pursuit of her projects, then the act is not presumptively wrong. Making these judgements requires us to know the full extent of the subject's capacity for autonomy, because our judgements will differ in different cases.[42] Thus the employment of a threshold system is a misstep for the argument from moral status as it leads to a similar initial treatment of all potential interventions, thus failing to distinguish between acts that either deny or promote the autonomy of those above the threshold.

In this respect, the autonomy argument should be considered more plausible than its rival as it is not guilty of treating all interferences that impact on the capacity for autonomy as presumptively wrong, ignoring the difference between the promotion and restriction of the autonomous pursuit of the subject's goals. Instead, by relying on the amount of personal autonomy the subject can currently enjoy, the argument from autonomy is able to distinguish between types of interferences in this way. The argument recognizes that paternalistic acts are problematic because they interfere with how we intend to pursue our own good. This ensures that acts that are intended to allow us to better identify or pursue our own good are treated as less problematic, not as problematic but easier to justify. The latter Rawlsian approach appears redundant in this respect, and this is illustrative of its mishandling of respect for personal autonomy, yet Quong's view is tied to this approach by his reliance on the Rawlsian account of the person. Thus I argue that to adequately capture personal autonomy's role in explaining the presumptive wrong of paternalism we cannot employ an account of respect for persons grounded in the moral status of an individual *that is also compatible* with Rawls's constructivism.[43] Doing so will employ the wrong metric (status not autonomy) to explain satisfactorily the wrong of paternalism.

In a similar way to de Marneffe's project of reconciliation, identifying this tension between autonomy and the Rawlsian project may simply give us reason to reject the harmony of our approach of paternalism

[42] For example, in some cases the quality of autonomous decisions may be important, in others the quantity of such decisions, and so on. The autonomy argument is flexible enough to be able to balance the various dimensions of personal autonomy that will be relevant to such decisions by appeal to different elements of the concept. Further clarity on this point requires larger arguments that are beyond the scope of this article; however, it is worth noting that the argument from moral status seems poorly equipped to deal with such variance, because it employs a low threshold of capacities as a block on potentially paternalistic interventions. I thank the anonymous reviewer for drawing this to my attention.

[43] This is not to preclude compatibility with any form of constructivism (specifically autonomy-based approaches). My argument here is specifically against the compatibility of Rawlsian accounts and the problem this may cause for the argument from moral status.

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with political liberalism as a sign of the suitability of our definition. Even though it requires a controversial value claim regarding the value of personal autonomy, it appears that the argument from autonomy better captures the fact that paternalism tracks the wrongs of interferences with our autonomous pursuit of the good. And given that this argument can accommodate the attractive parts of the argument from moral status (as it allows us to explain the non-comparative wrong of paternalism that Quong identifies) I argue that we have a reason to prefer the argument from autonomy as an explanation of the presumptive wrong of paternalism.

VI. CONCLUSION

In this article I have defended the motivational account of paternalism against de Marneffe's worry by exploring the range of positions one can take if we accept this definition. This definitional strategy defines paternalism as those acts which share the mixed motivation of care and control, and by this motive, generate disrespect towards the paternalisee. I have discussed a range of issues that these accounts have faced in their development, regarding both defining paternalism and explaining its presumptive wrongfulness. Further, I have defended an argument that explains the presumptive wrong of paternalism in terms of personal autonomy against a recent rival that seeks to explain the wrong in terms of the moral status of the paternalisee in Rawlsian terms. Finally, I have demonstrated the conceptual dependency that lies at the heart of such definitions, that is, between the possession of said motive and the account of respect for persons that is required to explain why acts motivated in this way are disrespectful.

With this relationship made clear, we may find ourselves accepting a simple binary distinction between paternalistic acts that are respectful (and thus unproblematic or benign), and paternalistic acts that are disrespectful (and thus problematic and presumptively wrong). If it is the contravention of personal autonomy that generates the wrong of paternalism, then acts intended to promote our personal autonomy will be paternalistic, but in a benign sense as they fail to fulfil the criteria for presumptive wrongness. Understanding this distinction does require an account of respect for persons, but I believe such a move is plausible. Further, this provides us with a reason to discard the project of reconciliation that de Marneffe mistakenly identifies as crucial to progress in this area of debate.

We can derive two further conclusions from the arguments I have provided. The first is that Quong will have to provide further support for interpreting respect for persons in the Rawlsian sense. Given that this is not the sole account of respect that can be employed to explain the

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wrong of paternalism in a non-comparative fashion, supporting reasons why we should turn away explanations based on personal autonomy are required. The two reasons given (that the argument may be overly permissive and that it rests on a controversial value claim) will only be problematic if we accept the wider Rawlsian framework that prioritizes the right over the good. A comprehensive liberal could happily dismiss both claims as unproblematic because they do not share the political liberal project.

The second conclusion to draw from the argument is the simplest and most important. In recent years, it has become clear that the motivational account of paternalism is a strong definitional method. Quong's recent arguments provide an important challenge that splits the method into two coherent opposing positions. The first employs a traditional account of respect for personal autonomy to explain the wrong of paternalism. This requires a controversial value claim. The second employs a Rawlsian account of the person to explain the wrong of paternalism. I have argued that this Rawlsian account treats all potentially paternalistic acts in the same way. The key difference between the definitions is their fit with our wider normative commitments and our intuitions regarding the permissiveness of acts justified by their promotion of personal autonomy. By explaining the wrong of paternalism in terms of an infantilizing sense of disrespect, I have argued that motivational accounts are conceptually dependent on an account of respect for persons. In drawing our attention to this fact I hope that future discussion, critiques and defences of this interpretation of paternalism will better recognize this link and come to understand its implications.[44]

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