Decision Sciences and the New Case for Paternalism: a Critique

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Abstract

Several authors have recently claimed that empirical findings from distinct decision sciences provide compelling reasons in favour of paternalistic interference. Some advocate a so-called new case for paternalism, according to which the available behavioural and neuro-psychological findings enable paternalists to address traditional anti-paternalistic objections and reliably enhance the well-being of their target agents. In this paper, I combine insights from moral philosophy, decision-making research and evidence-based policy evaluation to assess the merits of this case. In particular, I articulate and defend three complementary arguments to demonstrate that, contrary to emerging consensus, the new paternalists have not put forward compelling reasons in favour of paternalistic interference. In doing so, I identify the main challenges faced by the new case for paternalism and explicate the implications of these challenges for the ongoing philosophical debate about the moral justifiability of paternalistic interference.

Keywords: Paternalism; Well-being; Evidence-based Policy Evaluation; Decision-making; Moral Justification.

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Introduction

Over the last few years, several authors have claimed that empirical findings from distinct decision sciences provide compelling reasons in favour of paternalistic interference. Some advocate a so-called ‘new case’ for paternalism (henceforth, NCP), according to which the available behavioural and neuro-psychological findings enable paternalists to address traditional anti-paternalistic objections and reliably enhance the well-being of their target agents (see e.g. Klick and Mitchell, 2006, and Thaler and Sunstein, 2003). Behavioural and neuro-psychological findings have been claimed to support paternalistic interference in a variety of domains, ranging from consumer choices to health care and reproductive decisions. These claims, in turn, prompted heated discussions regarding the justifiability of paternalism both in philosophy (e.g. Bovens, 2009, and De Marneffe, 2006) and in other disciplines (see e.g. Zamir, 1998, and Sugden, 2008, in economics; Rachlinski, 2003, and Glaeser, 2006, in psychology; and Camerer, 2006, and XXX, in neuroscience).

In this paper, I provide a philosophical assessment of the NCP and argue that, contrary to emerging consensus, the new paternalists have not put forward compelling reasons for paternalistic interference. My challenge to the NCP can be summarized as follows. The new paternalists supplement previous calls in favour of paternalism with a wide array of behavioural and neuro-psychological findings. These findings help the new paternalists to address some traditional anti-paternalistic objections, but justify a much narrower range of paternalistic interventions than the new paternalists have maintained. Furthermore, the new paternalists’ attempts to show that the paternalistic interventions they advocate are morally justified face severe and hitherto unaddressed justificatory challenges.

The contents are organized as follows. In Section 1, I identify and discuss three distinctive features of paternalistic interference. In Section 2, I reconstruct the NCP and explicate how recent behavioural and neuro-psychological findings supposedly support it. In Sections 3-5, I articulate and defend three complementary arguments to challenge the merits of the NCP. More specifically, the argument from conceptual ambiguity builds on major problems inherent in defining and measuring well-being to question the new paternalists’ ability to show that the interventions they advocate reliably enhance agents’ well-being. The argument from limited overlap points to the difficulty of implementing paternalistic interventions that reliably enhance agents’ well-being without involving morally objectionable violations of these agents’ autonomy or consent. The argument from constrained epistemic access attempts to demonstrate that the new paternalists typically lack the information required to design and implement welfare-enhancing paternalistic interventions.

Before proceeding, three preliminary remarks are worth making. First, my critique of the NCP is by no means intended to support all-encompassing opposition to paternalism. On the contrary, my aim is to assess the epistemic and evidential relevance of recent findings from distinct decision sciences for the ongoing philosophical debate about the justifiability of paternalism. The need for this assessment is especially pressing given the increasing prominence
of paternalistic policies and these policies’ far-reaching welfare implications. Second, some of the claims I put forward challenge both paternalistic and non-paternalistic attempts to enhance agents’ well-being. However, as I illustrate below, my three arguments support selective scepticism about the NCP, since they predominantly challenge the justifiability of paternalistic - as opposed to non-paternalistic - interventions. I shall comment throughout Sections 3-5 on the implications that my arguments respectively have for the justifiability of paternalistic and non-paternalistic attempts to enhance the well-being of the targeted agents.

Finally, this article aims to advance the contemporary discussion regarding the justifiability of paternalism in three main respects of general interest to moral, legal and political philosophers. First, it provides a philosophically informed evaluation of recent advances at the interface between economics, psychology and neuroscience that have been claimed to support paternalistic interference. Second, it draws novel connections between parallel debates about the justifiability of paternalism that are still insufficiently integrated across philosophy and these disciplines. And third, it combines insights from moral philosophy, decision-making research and evidence-based policy evaluation to develop a systematic critique of the NCP. In articulating this critique, I shall provide examples from a wide range of policy contexts - as opposed to one single case study - to make clear that my observations apply not merely to a few conveniently selected paternalistic policies, but rather generalize across the new paternalists’ policy recommendations.

1. Paternalism: Distinctive Features

The notion of paternalism has been given several characterizations by philosophers (see e.g. Arneson, 1980 and 2005, Dworkin, 1972 and 1983, Feinberg, 1971 and 1986, ch.1, Hobson, 1984, and Shiffrin, 2000). I am not concerned here with assessing these characterizations or with proposing a novel characterization of paternalism. For the purpose of this paper, I shall employ the term ‘paternalistic’ to indicate interventions which: (1) interfere with the autonomy of their target agents; (2) are implemented without the explicit consent of these agents; and (3) are designed with the primary aim to enhance the well-being of those agents. This characterization singles out three features as distinctive of paternalistic - as opposed to non-paternalistic - interventions. These features are taken to constitute individually necessary and jointly sufficient conditions for regarding an intervention as paternalistic.¹

¹ Some authors might question the tenability of specific aspects of this characterization (e.g. Sunstein and Thaler, 2003, do not regard violations of agents’ autonomy as a necessary condition for counting particular interventions as paternalistic). Still, I take such characterization to be sufficiently precise for the purpose of my critique and sufficiently general to cover many entrenched characterizations of paternalism (see e.g. Dworkin, 2010, and Wilson, 2011).
A few clarifications about these three conditions are in order. Concerning condition (1), paternalistic interventions greatly differ in the extent to which they violate the autonomy of their target agents (e.g. compare coercive detention with a mildly manipulative social advertising campaign). Indeed, some interventions involve so limited violations that one may question whether they are plausibly regarded as paternalistic (see e.g. Mitchell, 2005, on various instances of libertarian paternalism). In what follows, I devote particular attention to paternalistic interventions that aim to influence individuals’ voluntary choices, as opposed to non-voluntary behaviour. Moreover, I predominantly examine interventions whose promoters and targets are distinct individuals, even though in Section 5 I examine cases of self-regulation that some might regard as instances of paternalism toward oneself.\(^2\)

As to condition (2), for an intervention to qualify as paternalistic it is not required that its target agents actively oppose it. Rather, a lack of explicit consent by the time the intervention is implemented is sufficient to satisfy condition (2). This construal of condition (2) covers both cases where the target agents, unbeknown to the choice architect, express their consent to some other party, and cases where these agents do not consent but would have consented had they been better informed (hypothetical consent) or ideally rational (ideal consent). Several questions arise concerning the notion of consent (e.g. what circumstances license inferring that an agent consents to a particular interference? Under what conditions does consent count as fully informed and/or ideally rational? How should consent be conceptualized when it comes to policies for which it is unfeasible to obtain individualized support?). I do not expand on these issues since the cogency of my evaluation does not rest on what position one holds about them (for a discussion, see e.g. Ferzan, 2006, and Husak, 2010).

Condition (3) relates paternalism to interventions designed with the primary aim to enhance their target agents’ well-being, as judged by the choice architects or by those agents themselves. The new paternalists frequently mention welfare enhancement as their primary policy concern (see e.g. Sunstein and Thaler, 2003, 1159). Some authors go as far as to claim that well-being “ought to be the ultimate goal around which economic, health, and social policies are built” (Diener and Seligman, 2004, 1-2). On my construal of condition (3), whether an intervention can qualify as paternalistic depends on whether such intervention is designed with the primary aim of enhancing the well-being of its target agents, not whether it succeeds in achieving this aim. That is to say, interventions that happen to make their target agents worse off can count as paternalistic if they were designed with the primary aim of benefiting those agents. Moreover, interventions designed with additional aims

\(^2\) Various authors relate paternalism to interventions that violate the freedom of choice - rather than the autonomy - of their target agents. I mention only autonomy in the text for the sake of expositional convenience. I shall expand on the differences between distinct conceptions of autonomy whenever these differences are material to my evaluation of the new paternalists’ proposals (see e.g. footnote no.6).
besides that of enhancing the well-being of their target agents may still qualify as paternalistic (see e.g. Dworkin, 2005, on moral paternalism).³

Several criteria may be employed to assess the welfare implications of paternalistic interference. For the purpose of this article, I employ the expression ‘welfare-enhancing’ as a place-holder for different conceptions of well-being, without taking a position as to how exactly well-being should be defined and measured. In particular, I shall claim that an intervention is ‘welfare-enhancing’ if it improves the well-being of its target agents with respect to an otherwise identical situation where such intervention is not implemented. This use of the expression ‘welfare-enhancing’ covers both situations where some other non-paternalistic intervention is implemented and situations where no other intervention is implemented.

A wide spectrum of interventions, ranging from coercive legislation to social advertising campaigns, may fall under the scope of the proposed characterization of paternalism. Such interventions differ in a number of respects, including the identity of their target agents, the means employed to influence those agents’ behaviour, and the nature of the benefits and harms involved. As I illustrate in Sections 3-5, these differences can make it prohibitively difficult to reach all-encompassing verdicts either in favour or against paternalism. However, they do not imply that the justifiability of paternalistic interventions can be meaningfully evaluated only on a case-by-case basis. In particular, they do not preclude us from providing a systematic evaluation of the merits of the NCP.

2. The New Case for Paternalism

The NCP draws on an impressive corpus of recent behavioural and neuro-psychological findings. The new paternalists take these findings to strengthen former calls in favour of paternalistic interference with regard to each of the three distinctive features outlined in Section 1. The idea is that the available evidence enables choice architects to implement paternalistic interventions which respectively (1) involve morally acceptable violations of the autonomy of their target agents, (2) harmonize with these agents’ hypothetical or ideal consent, and (3) reliably enhance the well-being of those agents. Let us consider these three classes of interventions in turn.⁴

(1) Autonomy-related concerns figure prominently in the writings of anti-paternalists (see e.g. Kant, 1797 [1996], MM 6:453). One common theme in

³ Establishing whether enhancing agents’ well-being is the primary aim with which an intervention is designed is not always straightforward. Yet, this complication is of limited import for my evaluation, since most new paternalists emphasize welfare enhancement as the primary aim of the interventions they advocate.

⁴ The new paternalists typically alleges that the interventions they advocate are superior to traditional paternalistic interventions in each of these three respects, individually considered, but rarely examine how such interventions fare in all those respects, collectively considered. I explore this issue’s implications for the NCP in Section 4.
this literature is that even if individuals fail to make welfare-enhancing choices, the welfare losses they incur do not justify third parties’ interference, for “autonomy is even more important than personal well-being” (Feinberg, 1986, 59). To be sure, few authors take any minor violation of autonomy to ipso facto make the associated paternalistic interference morally unjustified. Still, autonomy violations are one of the main reasons why paternalistic interventions are often deemed to be morally objectionable. In the words of Velleman, “the reasons for deferring to a person’s judgment […] go beyond his reliability as a judge. Respect for a person’s autonomy may require that we defer to his considered judgment […] even when we have reason to regard that judgment as mistaken” (1999, 608).

In recent years, several authors advocated paternalistic interventions that putatively enhance agents’ well-being without involving morally objectionable violations of their autonomy. For example, Sunstein and Thaler (2003) support mandatory cooling-off periods that aim to benefit agents by inducing them to critically reconsider their own decisions. Indeed, some invoke autonomy-related concerns not so much against, but rather in favour of paternalistic interference. The idea is that autonomy involves not merely having one’s preferences protected from undesirable influences, but also being able to deliberate and act in light of considered judgments concerning one’s well-being (see e.g. De Marneffe, 2006). On this basis, various authors support paternalistic interventions that - while involving temporary violations of agents’ autonomy - counteract the influence of factors that purportedly tend to impede autonomous decision-making. In their view, autonomy may be simultaneously regarded as a constraint that restricts the set of admissible paternalistic interventions and as a goal to be promoted by paternalistic interference. For instance, Thaler and Sunstein (2008, ch.2) advocate restricting the short-term range of options of specific classes of agents (e.g. addicts) on the alleged ground that doing so would safeguard or even promote these agents’ long-term autonomous decision-making.6

(2) The mere fact that an agent does not explicitly consent to a particular intervention does not imply that such intervention violates her hypothetical or ideal consent. The new paternalists frequently advocate paternalistic

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5 Anti-paternalists may draw on both deontological and consequentialist considerations to support these autonomy-related concerns. By way of illustration, suppose facing some agents engaged in self-regarding conduct that has no direct and significant effects on the well-being of others. A consequentialist may argue that since many agents highly value the opportunity to make autonomous decisions, and since giving agents opportunities they value often enhances their well-being, paternalistic interventions that frustrate this opportunity rarely turn out to be welfare-enhancing.

6 Not all conceptions of autonomy are equally hospitable to these considerations. For instance, some Kantians would presumably object that autonomous agency cannot be subjected to the instrumental considerations purportedly involved in the aforementioned intertemporal trade-offs. I am not concerned here with assessing the relative merits of distinct conceptions of autonomy. For the purpose of my evaluation, it suffices to note that many paternalists and anti-paternalists alike hold that individuals have an interest in deliberating and acting in light of considered judgments about their own well-being, and that this interest is plausibly understood as an interest in autonomy.
interventions that, while operating without individuals’ explicit consent, putatively harmonize with their hypothetical or ideal consent. The declared aim of these interventions is to help individuals to achieve their own considered goals without steering their behaviour towards predetermined outcomes (see e.g. Sunstein and Thaler, 2006). Such paternalistic interventions are claimed to address or circumvent anti-paternalistic concerns associated with violations of agents’ consent. To give one example, paternalists are often criticized for failing to respect the preferences of their target agents. Most of these criticisms implicitly presuppose that the involved agents possess well-defined preferences before facing specific decision problems. In many cases, however, people construct their preferences only when confronting such problems (see e.g. Guala, 2005). According to some authors (e.g. Thaler and Sunstein, 2003, 1164), in these cases it is pointless to criticize paternalists for failing to respect agents’ preferences. For those agents lack well-defined preferences in the first place.\(^7\)

(3) As to the enhancement of agents’ well-being, the following reasoning is often put forward by the new paternalists (see e.g. Loewenstein and Haisley, 2008). Paternalistic interference is commonly opposed on the alleged ground that individuals are better placed than third parties to determine what choices enhance their own well-being (see e.g. Mill, 1859 [1956], ch.3-4). Even so, individuals frequently fail to make welfare-enhancing decisions. Moreover, a number of factors can demonstrably lead individuals to make choices that worsen - rather than enhance - their own well-being. These factors include lack of accurate information regarding the available options, cognitive biases (see e.g. Tversky and Kahneman, 1974, on anchoring), computational limitations (see e.g. Gigerenzer, 2000, on probabilistic mistakes) and self-control problems (see e.g. Elster, 1984, part II, on akrasia). Until recently, choice architects could influence only a narrow subset of these factors and had limited control over them. Fortunately - the reasoning goes - recent evidence from the decision sciences enables choice architects to intervene on a wider range of factors and exert a more pervasive control over them. This, in turn, provides choice architects with the means to design and implement paternalistic interventions that reliably enhance well-being both across individuals and across tokens of interventions of the same type.

Two kinds of contributions appear to be particularly significant in this context. The first relates to paternalists’ attempts to improve individuals’ well-being by exploiting specific biases or behavioural regularities. For instance, so-called ‘save more tomorrow’ plans can noticeably increase employees’ savings for retirement by changing their default options in retirement saving decisions. These interventions exploit individuals’ status quo bias and do not restrict the

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7 This obviously does not preclude one from opposing such interventions on other grounds. For instance, one may act on preferences that are not stable under reflection, be aware that her preferences are unstable, and yet attribute a high importance to the opportunity to satisfy her unstable preferences (see e.g. Sugden, 2006). Furthermore, many individuals have strong preferences against having their preference-formation mechanisms influenced by third parties’ interference, and the new paternalists’ interventions often frustrate such preferences.
set of options available to them (see e.g. Thaler and Benartzi, 2004). The second kind of contribution concerns the use of neurochemicals and hormones to alter agents’ behaviour. The idea is to identify how specific neuro-physiological perturbations affect decisions in particular experimental settings and use this information to influence individuals’ decisions in real-life situations. For example, various studies (e.g. Baumgartner et al., 2008, and Kosfeld et al., 2005) document that modulating individuals’ oxytocin levels can significantly increase their propensity to trust other players in experimental settings where cooperative behaviour is deemed to be welfare-enhancing. These studies provide a nice illustration of how recent neuro-psychological findings may help paternalists to foster welfare-enhancing modifications in their target agents’ behaviour.

3. Argument from Conceptual Ambiguity

As outlined in the previous section, the new paternalists advocate a wide range of paternalistic interventions by pointing to the welfare benefits these interventions allegedly yield to their target agents. The idea is that even though paternalistic interference raises some morally relevant concerns, the welfare benefits it brings to its target agents constitute a weighty - often decisive - reason for interfering. In this section, I articulate and defend an argument from conceptual ambiguity that calls this reasoning into question. My argument, which builds on some major difficulties inherent in defining and measuring well-being, proceeds as follows.

The new paternalists’ contributions are premised on the assumption that the paternalistic interventions they advocate reliably enhance the well-being of their target agents. Whether or not some paternalistic intervention is taken to improve agents’ well-being, however, frequently depends both on what conception of well-being one endorses and on what methods one employs to measure well-being. Regrettably, it is an open question how agents’ well-being is to be defined and measured. This, in turn, makes it difficult to assess the welfare implications of paternalistic interference. In particular, it casts doubt on the new paternalists’ claim that the interventions they advocate reliably enhance the well-being of their target agents. Below I explicate this reasoning in detail and address various objections that the new paternalists may put forward against it.

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8 Choice architects occasionally aim to not just exploit, but also exacerbate particular biases (see e.g. Jolls and Sunstein, 2006, on governmental attempts to induce agents to overestimate the risks involved in putatively unhealthy activities). These interventions may still qualify as paternalistic provided that the exacerbation of the involved biases is intended to enhance the well-being of the targeted agents.

9 Whether the interventions based on these findings qualify as paternalistic would depend on whether the targeted agents explicitly consent to those interventions and whether such interventions interfere with these agents’ autonomy. I address the issue whether the available neuro-psychological findings enable the new paternalists to design and implement welfare-enhancing paternalistic interventions in Sections 3-5.
Conceptions of well-being are customarily divided into three main categories (see e.g. Griffin, 1986, part 1, and Parfit, 1984, 493-502). First, mental state conceptions hold that well-being consists in the presence of specific kinds of mental states (see e.g. Crisp, 2006, and Feldman, 1997, on hedonistic conceptions, which relate well-being to the net balance of pleasure over pain). Second, one finds preference satisfaction conceptions, according to which an agent is well off to the extent that her actual, informed or ideal preferences are satisfied (see e.g. Hausman and McPherson, 2009, and Sumner, 1995). Third, objective list conceptions state that certain goods or experiences contribute to an agent’s well-being regardless of whether they bring about particular mental states or satisfy the agent’s preferences (see e.g. Arneson, 1999, and Nussbaum and Sen, 1993). These three conceptions of well-being are neither exhaustive nor mutually exclusive. Furthermore, each of them can be given more fine-grained characterizations. I am not concerned here with discussing the merits of those conceptions or their interrelations. The following remarks suffice for the purpose of my argument.

Paternalists advocate different conceptions of well-being. *Prima facie*, this diversity might seem an unproblematic or even welcome indication of pluralism on the paternalists’ part. After all - the thought would be - there is widespread disagreement about the relative merits of these conceptions, and it would be unnecessarily demanding to require paternalists to reach consensus on this issue. Moreover, showing that paternalistic interferences are welfare-enhancing does not always require one to discriminate between distinct conceptions of well-being, since all major conceptions occasionally yield analogous verdicts as to whether specific types of paternalistic interference are welfare-enhancing (e.g. think of compulsory schooling). Even so, paternalists’ disagreements concerning the definition and the measurement of well-being frequently hinder their calls in favour of paternalistic interference. For different conceptions of well-being often license contrasting evaluations of the welfare implications of such interference (see e.g. XXX). Indeed, this can happen even with distinct variants of the same conception of well-being.

By way of illustration, showing that paternalistic interference improves agents’ well-being appears to be more difficult if one endorses an actual - rather than ideal - preference satisfaction conception of well-being. To be sure, endorsing an actual preference satisfaction conception does not prevent one from

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10 An agent’s preferences count as satisfied when the state of affairs with which these preferences are concerned obtains. The actualization of this state of affairs does not have to involve any psychological feeling or experience of satisfaction on the part of the agent, and might even obtain without the agent being aware of such actualization.

11 Objective list conceptions of well-being may allow that experiencing specific mental states or satisfying particular preferences contribute to an agent’s well-being. However, on objective list conceptions, whether certain goods or experiences contribute to an agent’s well-being is not determined by the agent’s own mental states or preferences.

12 Consider, for example, preference satisfaction conceptions of well-being. The expressions ‘considered preferences’ and ‘informed preferences’ are often used interchangeably, yet are not co-extensional. For an agent may possess accurate information about the available options and still choose without undergoing careful deliberation and reflection. Conversely, an agent may choose on the basis of careful deliberation and reflection, yet lack accurate information about her options.
regarding some paternalistic interventions as welfare-enhancing (e.g. such interventions might happen to satisfy individuals’ actual preferences even though those individuals do not explicitly consent to them). Still, a comparatively smaller set of paternalistic interventions can be taken to make their target agents better off if one takes well-being to consist in the satisfaction of actual - rather than ideal - preferences (see e.g. Zamir, 1998).

In this respect, it is telling that distinct authors’ positions regarding the justifiability of paternalism frequently vary with what conceptions of well-being they endorse (e.g. think of many economists’ anti-paternalism and their reliance on actual or informed preference satisfaction conceptions of well-being). More generally, the point remains that even when distinct conceptions of well-being yield consistent verdicts concerning the welfare implications of paternalistic interference, they ground these verdicts on rather different justificatory principles. These differences, in turn, can significantly constrain the robustness of paternalists’ agreement regarding the welfare implications of interventions that target diverse classes of agents and choice situations.13

A new paternalist might object that the previous remarks do not support selective anti-paternalism, since they apply to most interventions aimed at improving agents’ well-being irrespective of whether these interventions qualify as paternalistic. The idea would be that the divergences between distinct conceptions of well-being make it difficult to reach agreement on the welfare implications of several interventions, independently of whether these interventions are paternalistic. My rejoinder to this objection is two-fold. First, the mere fact that paternalistic and non-paternalistic interventions alike face some common justificatory challenges does not entitle paternalists to dismiss these challenges as irrelevant. And second, several concerns predominantly affect the justifiability of paternalistic - as opposed to non-paternalistic - interventions. I shall expand in Sections 4 and 5 on these justificatory concerns. For the purpose of this section, let us consider some difficulties inherent in identifying what behavioural patterns constitute a suitable target for paternalistic interference.

In recent years, various authors (e.g. O’Donoghue and Rabin, 2006, and Thaler and Benartzi, 2004) advocated contrasting hyperbolic discounting on the alleged ground that inducing agents to make more far-sighted choices would enhance their well-being. As these authors point out, individuals often report that they would like to make more far-sighted decisions and complain that they lack the willpower to do so. Still, these reports imply neither that the involved individuals would modify their previous choices if they could nor that doing so

13 The differences between the justificatory principles that respectively underlie distinct conceptions of well-being may constrain not just the robustness, but also the informativeness of paternalists’ agreement regarding the welfare implications of their interventions. To see this, consider the debates concerning the informativeness of distinct indicators of well-being. Several authors take observed correlations between putative indicators of well-being (e.g. hedonic reports, neuro-biological variables) to show that these indicators provide accurate and reliable measures of well-being. Those correlations may well suggest that the indicators at hand target some common variable, yet do not demonstrate that such indicators provide accurate and reliable measures of well-being (see e.g. Bernheim, 2009).
would improve their well-being (see e.g. Kivetz and Keinan, 2006, on cases where individuals regret former far-sighted decisions). Furthermore, there are various reasons to doubt that, in general, inducing agents to make more far-sighted choices *ipso facto* enhances their well-being. For instance, some individuals live (or purposely follow lifestyles that predictably lead to) short lives, and many seem to benefit more from the availability of money and other resources while they are young than when they are elderly.

In this respect, a proponent of the NCP might attempt to show that inducing agents to make more far-sighted decisions is likely to be welfare-enhancing by pointing to aggregate data or to the hypothetical decisions that the majority of agents would presumably make if explicit choices were required (see e.g. Sunstein and Thaler, 2003, 1191-1194, on the fact that few employees who are automatically enrolled in retirement saving plans drop out even when doing so involves no direct financial penalties). These observations, however, do not provide precise indications concerning the welfare implications that inducing agents to make more far-sighted decisions has for specific individuals across choice situations.

Analogous remarks apply in relation to other decision biases and behavioural regularities. For instance, consider the so-called endowment effect, i.e. individuals’ tendency to value specific goods more if they are given initial ownership of such goods. As acknowledged by Jolls and Sunstein (2006, 220), several factors may lead to differences between individuals’ willingness to accept and willingness to pay, and establishing under what circumstances such differences constitute errors in need of correction often requires one to make controversial axiological assumptions. To put it differently, paternalistic interventions frequently have dissimilar welfare implications across agents, and the new paternalists often lack the information required to accurately estimate such implications for those agents (see e.g. *Section 5*).

To be fair, the new paternalists do offer some criteria for identifying cases where paternalistic interference is likely to yield welfare benefits to its target agents. For instance, as noted by Thaler and Sunstein (2008, ch.4), paternalistic interference can be welfare-enhancing in situations where individuals obtain delayed and inaccurate feedbacks concerning their choices’ welfare implications. Unfortunately, these criteria are set at an exceedingly high level of generality to enable the new paternalists to ascertain when exactly the interventions they advocate yield significant welfare benefits to the agents they target.

To illustrate this, consider the new paternalists’ declared aim to steer individuals’ behaviour towards the choices they would make “if they had complete information, unlimited cognitive abilities, and no lack of self-control” (Sunstein and Thaler, 2003, 1162). Achieving this aim would require the new paternalists to identify precisely what choices the targeted agents would make under these ideal conditions. This identification exercise, in turn, faces at least two major difficulties. First, it is hard to establish what exactly agents’ complete information, unlimited cognitive abilities, and perfect willpower amount to without making substantive assumptions about the definition and the measurement of well-being (e.g. what information is deemed to be relevant in a
given decision context can vary remarkably depending on what conception of well-being one endorses). And second, it remains obscure on what evidential and epistemic basis the new paternalists are to identify what the targeted agents would choose under ideal conditions. For instance, theories of preference change are insufficiently developed to ground precise reconstructions of agents’ ideal preferences on the basis of their stated preferences and observed behaviour (see e.g. Grüne-Yanoff, 2012).

A proponent of the NCP might object that in spite of these difficulties, the new paternalists could in principle provide increasingly precise criteria for evaluating the welfare implications of the interventions they advocate. Regrettably, the new paternalists’ attempts to specify such criteria are vulnerable to severe objections. To give one example, consider Sunstein and Thaler’s (2006) presumption in favour of policies that minimize the number of opt-outs. The mere fact that some policy minimizes the number of opt-outs by no means implies that this policy enhances the well-being of its target agents. For the number of opt-outs associated with that policy may vary depending on several factors that are unrelated to the impact such policy has on agents’ well-being. For instance, as argued by Sugden (2008), the mere fact that the rate at which adolescents start smoking is higher than the rate at which smokers of the same age quit falls short of implying that smoking enhances adolescents’ well-being. As these examples indicate, showing that particular paternalistic interventions are welfare-enhancing typically requires one to discriminate between different conceptions of well-being, or at least provide some precise and plausible criteria for evaluating the welfare implications of such interventions. In this perspective, most calls in favour of the NCP seem grounded in exceedingly vague conceptualizations of welfare to provide choice architects with informative practical guidance.

4. Argument from Limited Overlap

The proponents of the NCP maintain that recent findings from the decision sciences provide compelling reasons for paternalistic interference (see Section 2). In their view, the available behavioural and neuro-psychological findings enable choice architects to implement paternalistic interventions which respectively (1) involve morally acceptable violations of the autonomy of their target agents, (2) harmonize with these agents’ hypothetical or ideal consent, and (3) reliably enhance the well-being of those agents. These conditions point to three respects in which the new paternalists’ interventions are said to be superior to traditional paternalistic interventions. My argument from limited overlap questions the significance that these putative improvements are taken to have for the NCP. The reasoning goes as follows.

Suppose, for the sake of argument, that the available behavioural and neuro-psychological findings help the new paternalists to implement sets of paternalistic interventions that respectively satisfy conditions (1), (2) and (3), individually considered. This, by itself, by no means implies that a wide set of paternalistic interventions satisfy all these three conditions simultaneously. For
there is no general reason to assume that the sets of paternalistic interventions that respectively satisfy conditions (1), (2) and (3) overlap to any significant extent. Now, substantiating the NCP would presumably require the new paternalists to show that the interventions they advocate satisfy conditions (1)-(3) simultaneously. After all, it would be of limited import to demonstrate that some paternalistic interventions enhance their target agents’ well-being, if these interventions succeed in doing so only by means of morally unacceptable violations of these agents’ autonomy or consent. Conversely, it would hardly help the new paternalists to show that the paternalistic interventions they advocate involve morally acceptable violations of agents’ autonomy and consent, if those interventions fail to reliably improve the well-being of their target agents. Unfortunately, only a few paternalistic interventions are shown to satisfy conditions (1)-(3) simultaneously. This, in turn, casts doubt on the merits of the NCP.

A proponent of the NCP may concede that only a few paternalistic interventions satisfy conditions (1)-(3) simultaneously. At the same time, she might object that some instances of paternalistic interference are morally justifiable even if they do not satisfy those three conditions simultaneously. For instance - the objection would go - paternalistic interventions that do not harmonize with agents’ hypothetical or ideal consent may still be morally justified if they yield significant welfare benefits to those agents. This objection is not without merit. Nonetheless, showing that specific types of paternalistic interventions are morally justified would require one to demonstrate at least that such interventions do not incur any major violation of conditions (1)-(3). Regrettably, the new paternalists rarely meet this justificatory challenge. The following dilemma is particularly challenging for the new paternalists.

On the one hand, several paternalistic interventions involve morally acceptable violations of their target agents’ autonomy (condition 1) and consent (condition 2), but do not reliably enhance these agents’ well-being (condition 3). On the other hand, other paternalistic interventions reliably enhance their target agents’ well-being (condition 3), but succeed in doing so only because they involve morally objectionable violations of these agents’ autonomy (condition 1) and/or consent (condition 2). This dilemma affects not just a few paternalistic interventions, but also paradigmatic types of paternalistic interference that are championed by many new paternalists. By way of illustration, let us consider the interventions advocated by prominent libertarian paternalists.

Libertarian paternalists declaredly aim to alter their target agents’ behaviour so as to “make [such agents] better off, as judged by themselves” (Thaler and Sunstein, 2008, 5). The thought is that while traditional paternalists influence agents by means such as manipulation and deception, libertarian paternalists help individuals to make welfare-enhancing choices without restricting the range of options available to them (see e.g. Thaler and Sunstein, 2003, 177). At first glance, the aim to make agents better off as judged by themselves without restricting the range of options available to them may seem to constitute an attractive policy ideal. Even so, the libertarian paternalists’ attempts to approximate this ideal invite the following two-fold rejoinder.
First, the mere fact that some paternalistic intervention does not restrict the range of options available to its target agents falls short of implying that such intervention involves no morally objectionable violation of autonomy or consent (e.g. think of subliminal advertising or other forms of psychological manipulation). And second, choice architects’ ability to influence agents’ behaviour can significantly decrease when these agents are previously informed of the implementation of paternalistic interference and the cognitive mechanisms it exploits (see e.g. Hausman and Welch, 2010). Whenever this is the case, a tension arises between the choice architects’ aim to enhance agents’ well-being and their purported moral obligation to inform such agents of the implementation of paternalistic interference and the cognitive mechanisms it exploits. In such situations, libertarian paternalists rarely inform the targeted agents of what cognitive mechanisms are used to influence their behaviour and how exactly those mechanisms are supposed to work.

For example, consider the ‘save more tomorrow’ plans mentioned in Section 2. These interventions do not engage their target agents in a process of rational persuasion, but rather influence their choices by surreptitiously exploiting decision biases (e.g. status quo bias) to which they are likely vulnerable. In this respect, libertarian paternalists might well rebut that since the targeted agents are informed of their interventions’ implementation, these interventions satisfy basic transparency constraints (see e.g. Thaler and Sunstein, 2008, 244, on the so-called ‘publicity principle’, which bans governments from selecting policies that they would not be able or willing to defend publicly to their own citizens). This rebuttal, however, is of little help to libertarian paternalists. For in implementing their interventions, libertarian paternalists reveal to their target agents neither what methods are employed to influence their behaviour nor how these methods are supposed to influence them. In this perspective, several instances of libertarian paternalism resemble traditional paternalistic interventions in their tendency to substitute the choice architects’ evaluations for the target agents’ judgments about their own well-being.14

These considerations point to a more general justificatory challenge for the proponents of the NCP. This challenge, which relates to the moral justifiability of the new paternalists’ interventions, can be explicated as follows. Suppose, for the sake of argument, that the new paternalists’ interventions demonstrably enhance the well-being of their target agents. Assume further that if an intervention makes its target agents better off, then this fact should be regarded as a prima facie (albeit defeasible) reason in favour of this intervention.15 The mere fact that some paternalistic intervention is welfare-enhancing does not per

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14 Similar concerns arise in relation to the possibility that paternalistic interference may lead to agents’ infantilization. The idea is that paternalistic interventions neither help nor incentivize their target agents to develop effective decision-making skills and make welfare-enhancing decisions for themselves (see e.g. Bovens, 2009).

15 This assumption is not uncontroversial. For example, consider a hypothetical paternalistic intervention that makes some sadistic rapists better off. Does the fact that this paternalistic intervention enhances the rapists’ well-being count in favour of such intervention? More generally, should we take welfare enhancement to count in favour of paternalistic interference only insofar as this welfare enhancement is deserved? Or should we evaluate the moral justifiability of such interference without taking into account considerations of desert?
se guarantee that such intervention is morally justified. For instance, a paternalistic intervention may succeed in enhancing the well-being of its target agents only by means of morally unacceptable violations of these agents’ autonomy and/or consent. Hence, even if the new paternalists demonstrated that the interventions they advocate are welfare-enhancing, there may still be weighty or even decisive reasons to question the justifiability of such interventions.16

To be sure, few authors regard the mere fact that a paternalistic intervention involves some minor violation of autonomy or consent as a sufficient reason to oppose such intervention (see Section 2). Moreover, many paternalists and anti-paternalists alike agree that “it would be fanatical [to treat agents’ autonomy and consent] as a kind of trump not to be overridden on consequentialist grounds” (Sunstein and Thaler, 2003, 1167). Even so, paternalists and anti-paternalists respectively advocate rather dissimilar positions as to under what circumstances, if any, the welfare benefits yielded by paternalistic interference may render such interference morally justified. In particular, the new paternalists have hitherto failed to specify precise and plausible criteria for assessing when exactly these welfare benefits can be taken to override the moral concerns associated with violations of autonomy and consent. This lack of specificity is problematic, since these violations pose remarkable justificatory challenges to the new paternalists. Let me expand on this issue.

The new paternalists often criticize anti-paternalists for overstating the moral relevance of the violations of autonomy and consent involved in paternalistic interference. However, most new paternalists acknowledge that violations of autonomy and consent may raise significant concerns about the moral justifiability of paternalism. Indeed, they frequently emphasize these concerns in highlighting the alleged superiority of the NCP over former calls in favour of paternalism (see Section 2). In this context, showing that some paternalistic intervention is likely to enhance the well-being of its target agents and does not involve morally objectionable violations of these agents’ autonomy or consent does not suffice to demonstrate that choice architects should implement this intervention. Doing so, in fact, would require one to show that such intervention has demonstrably better welfare implications than non-paternalistic alternatives, with this expression covering both situations where some non-paternalistic intervention is implemented and situations where no other intervention is implemented (see Section 1). Regrettably, the new paternalists rarely attempt to meet this justificatory challenge. Moreover, the epistemic and evidential concerns I explicate in the next section make it highly doubtful that the new paternalists’ interventions have demonstrably better welfare implications than non-paternalistic alternatives.

16 A new paternalist might object that if some paternalistic intervention is welfare-enhancing, then such intervention is ipso facto morally justified. However, this objection presupposes that the welfare implications of paternalistic interference include all the factors pertaining to the moral justifiability of such interference, and the new paternalists have not offered convincing support to this welfarist presupposition (for a discussion of the role autonomy considerations can be taken to play in the definition and measurement of well-being, see e.g. Kagan, 1992, Raz, 2004, and Sobel, 1998).
To recapitulate, only a few paternalistic interventions are shown to reliably enhance the well-being of their target agents without involving morally objectionable violations of these agents’ autonomy or consent. Due to the moral relevance of autonomy and consent, showing that paternalistic interference is likely to enhance the well-being of its target agents and does not involve morally objectionable violations of these agents’ autonomy or consent does not suffice to demonstrate that choice architects should implement this interference. Indeed, as I argue in the next section, even showing that paternalistic interference is likely to be welfare-enhancing is more difficult than most new paternalists appear to presuppose. Taken together, these justificatory challenges cast serious doubts on the merits of the NCP.

5. Argument from Constrained Epistemic Access

In this section, I articulate and defend an argument from constrained epistemic access which aims to show that the new paternalists typically lack the information required to design and implement welfare-enhancing paternalistic interventions. The argument points to some major epistemic and evidential obstacles that make it difficult for the new paternalists to accurately: (1) quantify the impact specific decision biases and limitations have on agents’ behaviour; (2) calibrate their interventions for the interactions between these biases and limitations; (3) anticipate how responsive such biases and limitations will be to their interventions; and (4) estimate the effects agents’ self-regulative efforts have on their own behaviour. Below I examine these epistemic and evidential obstacles in turn and support my critique with a series of policy-relevant examples. Some of those obstacles hinder the implementation of both paternalistic and non-paternalistic attempts to enhance agents’ well-being. Others, instead, prevalently affect paternalistic interventions and single out paternalistic - as opposed to non-paternalistic - interventions as especially problematic.17

(1) As noted in Section 1, individuals are subject to a variety of decision biases and limitations. The new paternalists might in principle design welfare-enhancing interventions without having accurate knowledge of the impact that these biases and limitations have on agents’ behaviour (e.g. think of cases where different biases offset each other). Even so, implementing welfare-enhancing paternalistic interventions usually requires one to identify not just which biases and limitations affect her target agents, but also what impact such biases and limitations have on those agents’ behaviour. For the impact of specific biases and limitations varies significantly across agents (see e.g. Barber and Odean, 2001, on overconfidence), periods (see e.g. Baumeister, 2002, on

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17 Other authors (e.g. Glaeser, 2006, and Rizzo and Whitman, 2009) have recently put forward epistemic and evidential criticisms of the NCP. My remarks agree with these informative criticisms in spirit, but are grounded in a different conceptualization of the notion of paternalism. In particular, they do not imply that the information required to implement welfare-enhancing interventions is “in principle” unavailable to paternalists (Rizzo and Whitman, 2009, 159).
self-control problems), and choice situations (see e.g. Samuelson and Zeckhauser, 1988, on the status-quo bias). Due to these variations, showing that a paternalistic intervention improves agents’ well-being in a particular experimental setting by no means guarantees that the same holds across agents and situations. Conversely, demonstrating that some paternalistic intervention is welfare-enhancing in most situations of a given type (e.g. retirement saving decisions) does not license the claim that such intervention is welfare-enhancing in all (or even most) token situations of such type. For the welfare implications of paternalistic interference may vary dramatically due to minor alterations in the distribution of specific biases in the target population. The following example, which concerns how optimal sin taxes may vary depending on the incidence of self-control problems among the targeted agents, nicely illustrates this point.

Several authors advocate imposing so-called ‘sin taxes’ that counteract individuals’ vulnerability to present-bias and lack of willpower. O’Donoghue and Rabin (2006) propose a model where individuals choose between a composite good and a ‘sin good’ that is enjoyable to consume, but yields health costs or other negative consequences in the future (e.g. think of cigarettes and fatty foods). O’Donoghue and Rabin investigate how the optimal level of sin tax varies depending on the values of various parameters, including the elasticity of demand for the targeted goods, the marginal health costs associated with these goods’ consumption, and the distribution and extent of self-control problems in the targeted population. Let us focus on the last parameter. As illustrated by O’Donoghue and Rabin’s numerical examples (2006, 1836-1839), minor variations in the distribution and extent of self-control problems can have a dramatic effect on the optimal level of a sin tax. Indeed, even marginal inaccuracies in the estimation of self-control can lead to the imposition of sin taxes that worsen - rather than enhance - agents’ well-being. This, in turn, is problematic because the new paternalists often lack the means to accurately estimate the distribution and extent of self-control problems in the population segments they target. This problem is exacerbated by the fact that both the distribution and the extent of self-control problems presumably vary both across individuals and across different sin goods (see e.g. Rizzo and Whitman, 2009, for a detailed review).

(2) Individuals’ behaviour is influenced by a number of biases and limitations simultaneously. These influences can be occasionally exploited to steer agents’ behaviour in welfare-enhancing directions. For instance, as shown by Jolls and Sunstein (2006), one may use the availability heuristic - which inclines one to judge events as more probable when they can be called to mind more easily - to make negative outcomes more salient and thereby counteract agents’ optimism bias. At the same time, individuals’ vulnerability to multiple biases and limitations can severely complicate the task of estimating the welfare implications of paternalistic interference. After all, most studies succeed in controlling for the impact of only one or a few biases and limitations at a time (see e.g. Klick and Mitchell, 2006). Hence, those studies’ results rarely enable the new paternalists to anticipate the welfare implications of paternalistic interference in situations where a number of biases and limitations influence agents’ behaviour simultaneously. To put it differently, more detailed evidence about the aetiology of individuals’ behaviour is needed to bridge the gap
between the results obtained in controlled experimental settings and the new paternalists’ claims concerning the welfare implications of their interventions.

(3) Suppose that the new paternalists could obtain accurate information concerning the short-term impact agents’ biases and limitations have on their own behaviour. Even this may not enable the new paternalists to design and implement welfare-enhancing paternalistic interventions. Doing so, in fact, would often require them to anticipate how responsive such biases and limitations are to paternalistic interference. Unfortunately, the responsiveness of several biases and limitations varies across time, agents and types of intervention in ways that are hard to quantify accurately (see e.g. Weinstein and Klein, 2002, on the resistance of personal risk perceptions to debiasing measures). Moreover, various paternalistic interventions seem to have only short-term and context-dependent effects on agents’ behaviour (see e.g. Stijn et al., 2010, on the impact of various traveller advisory systems). These complications do not prevent the new paternalists from attempting to provide approximate estimates of the welfare implications of their interventions. Nonetheless, they considerably constrain the generalizability of the short-term results of paternalistic interventions targeting small population segments to longer time spans and wider subsets of the population. In recent years, a few methods have been developed to alleviate these constraints (see e.g. Trout, 2009, ch.6-7, on sunset provisions and minipublics). Yet, the point remains that too many and overly speculative inferential steps are required to estimate the long-term impact of agents’ biases and limitations in many real-life situations.

(4) Individuals adopt several methods to alleviate the impact that specific biases and limitations have on their own behaviour. Employed self-regulative methods range from self-imposed commitments (see e.g. Trope and Fishbach, 2000) to the voluntary submission to social controls and the advice of experts (see e.g. Loewenstein and O’Donoghue, 2006). To be sure, individuals often lack proper incentives to de-bias and may fail to implement effective de-biasing measures. Even so, self-regulative efforts can powerfully shape behaviour across several domains (see e.g. Baumeister and Vohs, 2004). For this reason, the new paternalists must accurately estimate the effects of individuals’ self-regulative efforts in calibrating their interventions. Regrettably, several factors hamper this calibration task. To give one example, individuals differ in their propensity to self-regulation (see e.g. Carver and Scheier, 1998) and adopt dissimilar self-regulative methods whose efficacy varies across time and situations (see e.g. Bogg and Roberts, 2004). Moreover, the new paternalists frequently lack the means to ascertain to what extent observed behaviour is shaped by agents’ self-regulative efforts. This, combined with the substitutability effects holding both between self-regulation at different times (see e.g. Baumeister et al., 1988) and between self-regulation and externally imposed controls (see e.g. Fishbach and Trope, 2005), often renders the estimation of the welfare implications of paternalistic interference prohibitively complicated (see e.g. the illustration regarding optimal sin taxes in point 1 above).

In light of all these concerns, a new paternalist may concede that the NCP faces significant epistemic and evidential challenges. At the same time, she might deny that these challenges call the NCP into question on the alleged ground that there are no viable alternatives to paternalistic interference. The thought would
be that since choice architects cannot avoid providing starting points and default options to the targeted agents, principled opposition to paternalism is “a literal nonstarter” (Sunstein and Thaler, 2003, 1165). This line of response does not insulate the NCP from the aforementioned epistemic and evidential challenges. For clearly, it is one thing to contend that choice architects typically make decisions (e.g. what information to provide and how to frame it) that influence agents’ behaviour. It is quite another thing to allege that any such influence is bound to be paternalistic.

A proponent of the NCP may acknowledge that the new paternalists often lack the evidence to establish what welfare implications paternalistic interference has for any particular agent. At the same time, she might object that the new paternalists may estimate the welfare implications of paternalistic interference for distinct types of agents on the basis of assumptions concerning this interference’s impact on the behaviour of such agents. Suppose, for the sake of argument, that the new paternalists can neatly separate distinct types of agents in terms of the behavioural impact some interference has on these agents (e.g. think of the differential impact that harm-preventing paternalistic restrictions may have on the behaviour of risk prone and risk averse agents respectively). Assume further that the new paternalists can identify precisely which of their target agents belong to each behavioural type. Substantiating the NCP would require the new paternalists to establish systematic correspondences between the predicted behavioural impact and the putative welfare implications of interference for the targeted agents. Unfortunately, the alleged fact that the new paternalists are able to categorize their target agents into distinct behavioural types falls short of implying that they can also establish what welfare implications their interference has for such agents. For a given interference may simultaneously have a similar impact on the behaviour of some set of agents, and yet have dissimilar welfare implications for each of these agents. In fact, the concerns explicated in points 1-4 above provide compelling reasons to think that the new paternalists’ interventions usually have dissimilar welfare implications for distinct individuals of the same behavioural types.

At this stage, a new paternalist might attempt to defend the NCP by pointing to wider distributive considerations. One such defence goes as follows. Paternalistic interventions are routinely designed to redress injustice (e.g. undeserved imbalances due to genetic inheritance) and reduce the costs that some agents’ activities impose on third parties (e.g. think of compulsory health insurance schemes aimed at contrasting individuals’ moral hazard). This does not per se render these paternalistic interventions morally justified. However, it forces anti-paternalists to specify what violations of agents’ autonomy and consent would have to be present to license the claim that those interventions are morally unjustifiable. Now, it is true that distributive considerations may occasionally bear in favour of paternalistic interference. Nonetheless, this possibility does not yield significant support to the NCP. For there is no principled reason to expect that paternalistic interventions prevalently redress (rather than exacerbate) injustice and reduce (rather than increase) the costs that their target agents’ activities impose on third parties. Furthermore, choice architects can often design non-paternalistic interventions that redress injustice and reduce such costs without violating agents’ autonomy or consent (see e.g. Klick and Mitchell, 2006).
Similarly, it would hardly help the new paternalists to hypothesize that forthcoming advances in the decision sciences will provide them with additional means to enhance agents’ well-being. Indeed, this appeal could even backfire against the new paternalists. For *in primis*, these advances may provide choice architects with more effective means to improve agents’ well-being without having to implement any paternalistic interference (see e.g. Voorhoeve, 2013, on the opportunity to disclose more detailed information about the aetiology of specific decision biases to the targeted agents). And second, forthcoming advances in the decision sciences may enable agents themselves to adopt superior forms of self-regulation, thereby reducing the alleged need for any welfare-enhancing interference.

**Conclusion**

The new paternalists maintain that the evidence collected in distinct decision sciences enables them to design and implement paternalistic interventions that address traditional anti-paternalistic objections and reliably enhance the well-being of their target agents. In this article, I put forward three complementary arguments to challenge this ‘new case’ for paternalism. More specifically, the *argument from conceptual ambiguity* emphasizes the need for the new paternalists to provide more precise and plausible criteria for evaluating the welfare implications of the interventions they advocate. The *argument from limited overlap* challenges the new paternalists to demonstrate that the interventions they advocate reliably enhance the well-being of their target agents without involving morally objectionable violations of these agents’ autonomy or consent. The *argument from constrained epistemic access* illustrates that the new paternalists typically lack the information required to design and implement welfare-enhancing paternalistic interventions. These three arguments do not license all-encompassing opposition to paternalism, and do not preclude one from advocating specific forms of paternalistic interference. Still, taken together, they cast serious doubts on several authors’ claim that recent evidence from the decision sciences provides a compelling ‘new case’ for paternalism.

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