

**The Imprudence Trilemma:
Sufficiency, Non-Paternalism, and
Cost-Sensitivity**

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Cost-Sensitivity**

PhD Dissertation

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Chapter 1: Introduction

We smoke, we drink, we eat fatty food, we sunbathe, we gamble, we climb mountains, we ride our bicycles without wearing helmets, we sail without using safety vests, we take risky loans, we do drugs, we bungee jump, we sign unconscionable contracts, we box, we jump from high cliffs or structures into water ('tombstoning'), and we play American football. I could go on and on, but I think I have made my point. People act imprudently all the time. Sometimes profoundly imprudently.

It is unsettled how a just society should respond to such imprudent activities as they give rise to opposing concerns. On the one hand, most believe that a just society requires that each citizen finds him- or herself in a sufficiently good situation, free from severe deprivation (e.g. Casal 2007, 299). In other words, it is important to satisfy a concern of *sufficiency*. However, it is difficult to see how such sufficiency can be ensured without jeopardising other important concerns (Williams 2006; Bou-Habib 2006). One reaction to the imprudent activities is to assist people free of charge when the relevant risk pertaining to certain activities materialises. In doing so, we accept that imprudent people impose the costs of their risky activities on others and thereby compromise a concern that people ought to internalise the costs of their voluntary choices (see e.g. Bou-Habib 2006, 247; Stemplowska 2009, 249; Knight 2015, 122-124; Voigt 2007, 405), which I will refer to as a concern of *cost-sensitivity*. Another reaction would be to regulate the activities in question. We may e.g. introduce excise taxes or compulsory insurances which ensure funds for health care or other types of ex post corrections, or we may require security measures such as helmets, safety vests, and seat belts which prevent harm from materialising to begin with. Such regulations seem to interfere with people's freedom and autonomy for their own good, i.e. they seem to imply paternalism, and many believe that we should avoid interfering with choices that people make voluntarily and only concern themselves (e.g. Stemplowska 2009, 249; Anderson 1999, 300-302; Voigt 2007, 405-406). This is the concern of *non-paternalism*. The three concerns can be briefly summarised as follows.

Sufficiency: There is a threshold below which people should not find themselves.

Cost-sensitivity: People should not impose the costs of their avoidable imprudent activities on others.

Non-paternalism: Paternalism should be avoided.

It has been argued that those who believe that we should simultaneously satisfy sufficiency, cost-sensitivity, and non-paternalism seem to run into a trilemma (Williams 2006; Bou-Habib 2006; Huseby 2018). No matter how we respond in the relevant situations, it seems that we must compromise one of the three concerns. This puzzle has been referred to as ‘the imprudence trilemma’ (Bou-Habib 2006, 243) and represents the focal point of my project. Specifically, the project asks:

How should we respond to the imprudence trilemma?

There are various ways to deal with a trilemma.¹ One is to argue that the three concerns actually do not constitute a trilemma as it is possible to satisfy the three concerns at the same time.² Another way to argue that the trilemma is false is to reject one (or more) of its concerns.³ A less radical reply would be to recognise the importance of the three concerns, but argue that compromising one of them is the least problematic solution. Alternatively, one might argue that one strategy vis-à-vis the trilemma overall addresses its three concerns more adequately than other possible strategies.

In response to the trilemma, I argue that we should reject the concern of non-paternalism. The thesis clarifies and substantiates this claim through five articles:

1. Pedersen, V. and Midtgaard, S. (2018). ‘Is Anti-Paternalism Enough?’ *Political Studies*, 66(3): 771-785.
2. Pedersen, V. (2019). ‘On the Anti-Paternalist Project of Reconciliation’, *Utilitas*, 31(1): 20-37.
3. Pedersen, V. (2019). ‘Harm to Self or Others: On Central Non-Paternalistic Arguments’, *Social Theory and Practice* 45(2): 287-305.
4. Pedersen, V. (2019). ‘Paternalistic Respect and Concern,’ Manuscript.

¹ Here, I am inspired by Huseby’s mapping of ways to approach the trilemma (Huseby 2018).

² This is Paul Bou-Habib’s approach (Bou-Habib 2006).

³ This is Robert Huseby’s strategy. He argues that we should reject the cost-sensitivity horn of the trilemma (Huseby 2018).

5. Pedersen, V. (2019). 'The Imprudence Trilemma: Sufficiency, Non-Paternalism, and Cost-Sensitivity,' Manuscript.

In this introductory summary, I aim to introduce my arguments and show how together, they respond to the overall research question. The rest of the summary is structured as follows: In chapter 2, I provide a brief outline of the five articles. Chapter 3 presents the methodological framework that I have used in this project. Furthermore, the chapter addresses some considerations pertaining to this methodology. In chapter 4, I present and motivate the understanding of paternalism and anti-paternalism that my arguments employ. Moreover, chapter 4 presents the project of reconciliation, i.e. the project of reconciling anti-paternalism with policies that seem both reasonable and paternalistic. This project is important to the debate between paternalists and anti-paternalists as it might show that anti-paternalists need not reject certain apparently reasonable policies. In addition, the project of reconciliation might have a key to solving the imprudence trilemma: according to reconciliation theorists, it is possible to satisfy the three concerns of the trilemma at the same time. However, in my view, the procedure of the project of reconciliation is flawed. As a result, the project of reconciliation does not represent a satisfactory solution to the trilemma. The chapter introduces my arguments to this effect.

Why should we necessarily avoid paternalism, if some apparently paternalistic policies seem reasonable? One reason for rejecting paternalism, which has received much attention, is that paternalistic acts and policies express disrespect toward the people interfered with. In chapter 5, I present this objection to paternalism and my response to it. I argue that there are relevant ways in which paternalistic acts and policies are expressive of respect (and important ways in which anti-paternalistic inaction is expressive of disrespect).

Another potential reason for rejecting paternalism occurs if we have better alternatives to accepting paternalism. In chapter 6, I address two avowed alternatives to accepting paternalism in response to the trilemma – the *no assistance* approach and the *unconditional assistance* approach. The former compromises sufficiency, whereas the latter compromises cost-sensitivity. Both, it has been argued, satisfy non-paternalism. Following many prominent theorists, I argue first that the no assistance approach is not preferable to accepting paternalism. Second, I argue that the unconditional assistance approach does not cater adequately to the concern of sufficiency. Moreover, and perhaps more surprisingly, I argue that even unconditional assistance plausibly implies elements of paternalism. Accordingly, it becomes difficult to find satisfactory alternatives to accepting paternalism.

In chapter 7, I show how my project contributes to our understanding of the imprudence trilemma. I argue that traditional attempts to understand and solve the trilemma have failed to recognise several important aspects. In chapter 8, I conclude and reflect on the practical implications of my conclusion.

Chapter 2: Short Outline of the Articles

Before moving on to show how the five papers in this project all contribute to answering the overall research question, I will briefly introduce the arguments of each individual paper.

Article 1: Is Anti-Paternalism Enough?

In this paper, Søren Flinch Midtgaard and I focus on the question of how to ensure sufficiency for people who act in profoundly imprudent ways with respect to their own interests or well-being. We argue that to prevent serious situations of insufficiency for these people, it is not enough to assist them, when the risk pertaining to their activities has unfortunately materialised. In addition to the well-known concern of avoiding *harshness* in responding to the needs of people who are destitute because of their own risky choices, we introduce the concern of avoiding *insouciance*. According to the latter, we should not ‘stand idly by when people are about to act in ways that may irrevocably land them in insufficient situations’. We argue that inaction is not only morally problematic when people’s imprudent conducts end badly. Inaction can also be deeply problematic in the stages prior to any accidents. The paper argues that the concern of avoiding insouciance calls for paternalistically justified policies and actions.

Article 2: On the Anti-Paternalist Project of Reconciliation

This paper focuses on the anti-paternalistic project of reconciling anti-paternalism with policies and actions that seem to be both reasonable and paternalistic. The strategy of this project of reconciliation has been to identify and develop non-paternalistic reasons that can fully justify certain seemingly paternalistic policies and actions without appeals to the interests or well-being of the agents interfered with. The paper grants that reconciliation theorists may often identify sufficient, non-paternalistic reasons that can justify the relevant policies under realistic circumstances. However, at the same time, the non-paternalistic arguments are often vulnerable to hypothetical counterexamples. The latter indicates that the non-paternalistic arguments are not *satisfactory* in the sense that they do not adequately reflect our underlying moral considerations pertaining to the relevant policies and actions. The paper argues that a concern for the interests or well-being of the persons interfered with is included in those underlying considerations and thus should be in-

cluded in a satisfactory justification. The point is illustrated through a thorough examination of Seana Shiffrin's non-paternalistic justification of the unconscionability doctrine.

Article 3: Harm to Self or Others: On Central Non-Paternalistic Arguments

In this paper, I focus on two non-paternalistic arguments pursued by theorists engaging with the project of reconciliation – ‘the public charge argument’ and ‘the psychic harm argument’. According to both arguments, we may justify regulating people’s risky activities with reference to the costs to third parties that such activities are likely to cause. In other words, our justification putatively avoids paternalistic appeals to the harm that the regulations would prevent to the persons performing the activities in question. The paper raises a number of objections to the two non-paternalistic arguments. First, it shows how the arguments can be challenged by compelling counterexamples. The reasonableness of the regulations sought justified is arguably not conditional on the costs to third parties that the non-paternalistic arguments rely on. Second, the article questions whether the relevant costs to third parties can actually justify interfering with people’s liberty or autonomy. The upshot is that none of the two arguments represent adequate alternatives to the paternalistic argument.

Article 4: Paternalistic Respect and Concern

This paper addresses a common objection to paternalism. According to this objection, paternalistic acts and policies deliver a disrespectful message to the agents interfered with. While paternalism may often promote good outcomes, it is often considered problematic because of what it expresses. In response to this objection, I argue that there are relevant ways in which anti-paternalists fail to express respect for people who act imprudently. The problem is that anti-paternalistic inaction prior to serious accidents is expressive of indifference to the moral worth of people performing the risky activities. Additionally, I argue that anti-paternalists often fail to express concern for the imprudent. If I am right, we should not reject paternalism on the basis that it fails to express respect and concern.

Article 5: The Imprudence Trilemma: Sufficiency, Non-Paternalism, and Cost-Sensitivity

This paper addresses the overall question of this PhD project, i.e. how we should respond to the imprudence trilemma. In fact, the article illustrates how my four articles presented above all contribute to answering this question. In this paper, I specifically focus on two different approaches to the trilemma.

First, when an agent acts imprudently and the risk materialises, one option is to provide *unconditional assistance* by taxing everyone. I argue that such an insurance scheme is in itself unsatisfactory with respect to minimising the risk of insufficiency. In this context, I refer to the argument presented in **Article 1**. Moreover, pace the general view in the literature on the trilemma, I argue that the justification of the relevant scheme plausibly involves at least some elements of paternalism.

A second, possible approach to the trilemma is to introduce *regulations* of the imprudent activities. Such regulations may be justified paternalistically or non-paternalistically. However, drawing on my arguments in **Article 2** and **Article 3**, I argue that there are important differences between the ways in which paternalistically justified regulations and non-paternalistic regulations relate to imprudent people. Regulations introduced purely for non-paternalistic reasons have counter-intuitive implications and fail to cater adequately to the concern of ensuring sufficiency.

Finally, the paper responds to an objection to my argument. The objection is that my argument, emphasising the distributive advantages of paternalism with respect to the concern of ensuring sufficiency, neglects that policies and actions also have an expressive dimension. While I might be right that paternalism is favourable from a distributive perspective, paternalism seems far from favourable from an expressive perspective. Specifically, the objection goes, paternalism implies expressions of disrespect. In response to this objection, I invoke the argument presented in **Article 4**. I argue that there are relevant ways in which paternalism is in fact expressive of respect (and in which anti-paternalism is expressive of disrespect).

Article 5 concludes that satisfactory versions of both unconditional assistance and regulations imply paternalism. In response to the imprudence trilemma, it seems that we should accept paternalism.

Chapter 3: Methodology

The research question is investigated within the framework of normative political theory focusing on moral issues related to politics. Recall that the thesis asks the question how we should respond to the imprudence trilemma. It sets out to investigate how things *should be* and not how they *are*. The research question thus calls for normative discussions of the moral significance of the three desiderata of the trilemma as well as the ability of different responses to satisfy them adequately.

The method employed to answer the research question is the so-called ‘reflective equilibrium’ method which was originally formulated by John Rawls in 1971.⁴ Reflective equilibrium is the dominant methodology in normative political theory. The approach aims to rectify incoherence between our considered judgments (some say intuitions)⁵ about specific cases and normative principles. The term, ‘intuitions’, should not be seen as indicating that the relevant judgments represent something impulsive or pre-reflexive (Hansen 2016, 30). Considered judgments are thoroughly reflected reactions to (hypothetical or non-hypothetical) cases and general principles of relevance to the problem addressed. ‘Considered’ or ‘thoroughly reflected’ mean that the judgments are formed under ‘favorable circumstances’ or ‘conditions favorable for deliberation and judgment in general’ (Rawls 1971, 42). According to Rawls, this implies e.g. that ‘we can discard those judgments made with hesitation, or in which we have little confidence’ as well as ‘those given when we are upset or frightened, or when we stand to gain one way or another’ (Rawls 1971, 42). In Cohen’s phrasing, a normative principle is ‘a general directive that tells agents what (they ought or ought not) to do’ (Cohen 2003, 211).

Scanlon (2002) describes the method as conducted in three stages (pp. 140-141). The first stage is to identify a set of relevant intuitions. The next step is to seek to articulate principles reflecting or accounting for these intuitions.⁶ The third and final step is to examine to what extent the principles reached in the second stage cohere with or diverge from our intuitions concerning new, relevant cases. In case of incoherence, the intuition or principle must be

⁴ However, Rawls highlights Sidgwick’s *The Methods of Ethics* as an important predecessor (Rawls 1971, 45).

⁵ I use ‘considered judgments’ and ‘intuitions’ as interchangeable terms for the same phenomena.

⁶ However, sometimes we may instead start from principles that we find plausible from the beginning.

reevaluated. Every intuition or principle is a potential subject for modification. However, the stronger reasons we have to preserve a principle or intuition, the stronger our reasons are to revise conflicting intuitions or principles (Hansen 2016, 22). One is then, as Scanlon puts it, ‘to continue in this way, working back and forth between principles and judgments, until one reaches a set of principles and a set of judgments between which there is no conflict’ (Scanlon 2002, 141). The state of reflective equilibrium is reached when no further adjustments are necessary.

The method follows a hypothetical deductive logic which is parallel in structure to many empirical research traditions. The structure can be sketched as follows (Nielsen 2013, 46):

- i) Hypothesis *H* is specified based on an existing system of intuitions, moral principles, and background theories.⁷
- ii) Implication *I* is derived from *H* and the existing system.
- iii) Upon examination of specific cases, either acceptance of *I* is found, whereby *H* is strengthened, or acceptance of non-*I* is found, whereby *H* is weakened.⁸

The hypothesis *H* is formulated as the principle or rule, the credibility of which we would like to test. The implication *I* is a consequence that one must accept if one accepts *H*. The examination is an assessment of whether it is plausible or reasonable to accept *I*. In this way, the method in question examines theories in the light of their implications in relevant cases by consulting our considered judgments (Lippert-Rasmussen 2011, 299).

To illustrate this, it might be helpful to consider the following well-known objection to act utilitarianism. According to act utilitarianism, ‘whenever we are deciding what to do, we should perform the action that will create the greatest net utility’ (Nathanson 2014). From this moral view, we can make the following assessment:

- i) Hypothesis *H*: We should always act so as to create the greatest net utility.
- ii) Implication *I* derived from *H*: If it creates the greatest net utility to save five people by killing one person, then we should kill the one person.

⁷ Roughly, a theory is an existing system of normative principles, rules, and standards specifying or reflecting the relations between moral reasons and the judgments supported by the relevant reasons (Hansen 2016, 22).

⁸ In some cases, acceptance of non-*I* might lead to *H* being rebutted.

Thus, if five people lack five different organs, then we should kill one person and use the organs to save the five.

- iii) Examination: It seems wrong to kill one person to use his or her organs to save five people even if this creates the greatest net utility.

The examination provides reasons for revising the moral rule and weakens the theory subscribing to it in its current formulation (i.e. it weakens the case for act utilitarianism).

As a central part of the method is to assess theories by consulting our intuitions about realistic *or* hypothetical cases, it might be worthwhile to say something further about the role of ‘hypothetical cases’ (some say ‘thought experiments’).⁹ If one ultimate aim of normative political theory is to formulate moral rules and principles that can guide ‘real people in the real world’, then it might seem irrelevant or strange to test rules and principles on outlandish and unrealistic thought experiments. However, thought experiments are arguably a helpful, if not necessary tool which can help us to disentangle and assess moral reasons as well as the normative principles on which the relevant reasons are based. To test principles on cases reliably we must ensure that the cases are ‘clean’, i.e. cleansed of distracting features (Tadros 2011, 7).

Realistic examples are often ‘dirty’ or ‘messy’. If, e.g., we want to test whether hard paternalism is morally justified, smoking might be a difficult test case. The appropriate response as to whether a policy raising the price of cigarettes is generally just rests on several different issues. What is at stake for the smoker? Are smokers acting voluntarily (despite the fact that one gets addicted to nicotine and irrespective of the fact that heavy smokers often belong to disadvantaged groups)? What is the cost to others (both financially and physically due to passive smoking)? Is it morally permissible to restrict people’s freedom with reference to such cost? These are all disturbing factors which make it difficult to focus our attention on the permissibility of hard paternalism. Hypothetical cases enable us to isolate all individual factors and test their moral significance without influence from the other factors that occur in the real, messy world. To test our intuitions regarding hard paternalism, we can e.g. imagine a cleaner case, in which we assume voluntariness, no cost to third parties (neither financially nor in the form of passive smoking) and great health benefits of the policy.

As an illustration of this technique, consider Robert Nozick’s famous objection to welfare hedonism, ‘the view that the experience or sensation of pleasure is the chief human good’ (Kymlicka 2002, 13). To examine this view, Nozick asks us to imagine ‘the experience machine’:

⁹ I use ‘hypothetical cases’ and ‘thought experiments’ interchangeably.

Suppose there were an experience machine that would give you any experience you desired. Superduper neuropsychologists could stimulate your brain so that you would think and feel you were writing a great novel, or making a friend, or reading an interesting book. All the time you would be floating in a tank, with electrodes attached to your brain. [...] Of course, while in the tank you won't know that you're there; you'll think it's all actually happening. [...] Would you plug in? (Nozick 1971, 42-43).

Nozick's thought experiment isolates the factor that welfare hedonists advocate for and show us that it is defective. Experience or sensation of pleasure does not encapsulate the realm of value and well-being. To understand what constitutes such human good, we must look for additional factors (Nozick 1971, 44) – plausibly, factors having to do with 'whether our experiences are real' (Brownlee and Stemplowska 2017, 23).

There are, however, certain pitfalls that one should be aware of when evaluating principles based on such more or less bizarre hypothetical cases. One potential problem is if the thought experiment in question is 'imaginatively opaque' (Brownlee and Stemplowska 2017, 29). Consider Nozick's experience machine. As ordinary people, we might find it very difficult to imagine that such a machine should actually be able to deliver the experience or sensation of pleasure that Nozick assumes it does. Because of this potential shortage (in us), we might be inclined to refuse to 'plug in' on the wrong basis.

I highlight this concern because a similar worry is relevant to many of the thought experiments that I present in this thesis. Specifically, I challenge the anti-paternalistic principle according to which paternalistic reasons should not play any role in the justification of acts and policies that interfere with the autonomy or freedom of voluntary agents (understanding paternalistic reasons as those that allude to the good, interests or well-being of the agents interfered with) (Pedersen 2019a, 22). I e.g. ask the reader to imagine agents who voluntarily drink anti-freeze, fight against well-armed gladiators without equipment, or undertake extremely risky rope gliding rides across the Grand Canyon. Such decisions might seem extremely stupid to most people. For the same reason, it can be difficult to accept or imagine that any person in his or her right mind might be acting in such a way and thus, there is a risk that readers will respond to the cases based on an underlying assumption that the imprudent agents do not adequately understand the risks to which they are exposing themselves. To take this issue adequately into consideration, one might stipulate a good explanation why any sane person would want to run such big risks (Thaysen 2017, 58). Alternatively, a more direct and perhaps even more effective solution would be to explicitly remind the reader of the particular challenge. Although I regret that I have not done the latter in all the individual papers, I am confident that this would not have changed any of my

conclusions. My examples are, after all, less outlandish than many other thought experiments in the literature.

I will end this methodology section by briefly explaining which roles intuitions play in this thesis. One way in which I challenge the anti-paternalistic principle is by revealing its counter-intuitive implications. Thus, in Article 1 (Is Anti-Paternalism Enough?), Midtgaard and I argue that anti-paternalism implies that we must stand idly by when people are about to act in ways that may land them in severe deprivation on a permanent basis. In Article 2 (On the Anti-Paternalist Project of Reconciliation) and Article 3 (Harm to Self or Others), I object to those who argue that anti-paternalists can avoid such implications by appealing to non-paternalistic reasons. If I am right that the anti-paternalistic principle has counter-intuitive implications, this is a *pro tanto* reason for rejecting the principle.

Furthermore, the apparently intuitive implications of rejecting the anti-paternalist principle motivate or invite arguments for paternalism. As Victor Tadros puts it, '[t]he fact that the implications of a principle are intuitive can ... incline us to seek satisfactory arguments for those principles' (Tadros 2011, 6). In Article 4 (Paternalistic Respect and Concern) and Article 5 (The Imprudence Trilemma), I seek to provide such arguments. It is well known that the purpose of paternalistic acts and policies is to promote good or prevent harm. However, despite establishing such favourable outcomes, paternalists face the charge that they are expressive of an insulting or disrespectful message. The papers argue that there are expressive reasons *for* accepting paternalism. First, there are relevant ways in which paternalism can be expressive of respect toward people who act imprudently. Interfering benevolently with a person's freedom or autonomy can be one way of showing recognition of the person and his or her moral worth. Second, in many instances, anti-paternalists do not express appropriate concern for the imprudent. To express concern for a person, we must regulate our behaviour toward that person as if we care for the person, and '[w]hen we care for a person, we want something for him or her, which is founded in the person's good or welfare'.¹⁰ I argue that sometimes, anti-paternalistic inaction fails in this latter regard.

Finally, I use hypothetical cases to clarify points and to substantiate and convince the reader of my arguments. Tadros describes the relevant merits in an apt manner:

Hypothetical cases can help to open a person's mind to accept an argument or a judgement. We are more likely to feel the force of a moral argument in the light of some examples that illustrate its implications. They help readers to grasp the

¹⁰ Quote from Article 4 (Paternalistic Respect and Concern); see also Darwall (2002) at p. 2, 15, 103.

force and significance of an argument, and may, in this way, help to induce readers to believe it (Tadros 2011, 7).

While I hope to have formulated hypothetical cases that give rise to strong intuitions, I am aware that others may not share my intuitions in each of the cases.¹¹ One way in which I deal with this is by “conditionalising” my arguments. I write, ‘if I am right that ...’ in order to reflect when my arguments are conditional on certain intuitive reactions.¹² In any case, much of the work in this thesis lies in exhibiting what one must accept if one accepts anti-paternalism, implications that to my mind are embarrassing for anti-paternalists. Of course, some anti-paternalists may be prepared to ‘bite the bullet’. However, even if I am not able to convince opponents that paternalistic interference is sometimes justified, I believe the thesis reveals that avoiding paternalism comes at a higher price than commonly assumed in the literature.

¹¹ See e.g. Article 2 (On the Anti-Paternalist Project of Reconciliation) at p. 28, footnote 25.

¹² E.g. Article 2 (On the Anti-Paternalist Project of Reconciliation), p. 28, 31, 35.

Chapter 4: Anti-Paternalism, Paternalism, and the Project of Reconciliation

In response to the trilemma, I will argue that we have reasons to accept paternalism. This chapter specifies what it actually means to accept paternalism. Specifically, in section 4.1, I present the anti-paternalistic position and my favoured account of paternalism that I have applied in my argument. In section 4.2, I briefly present and scrutinise three alternative, influential understandings of paternalism from the conceptual debate in the recent literature. As a first step in my defence of paternalism, I argue that strategies to solve the trilemma through the so-called anti-paternalistic project of reconciliation have proven unsuccessful. To qualify this argument, section 4.3 presents the project of reconciliation and its importance for i) the trilemma and ii) the general debate between paternalists and anti-paternalists.

4.1 Anti-Paternalism and Paternalism

John Stuart Mill's and Joel Feinberg's works represent the most important contributions to the literature on paternalism. The contemporary debate is shaped by Mill's well-known harm principle, which he formulates in his classic, *On Liberty*:

[T]he only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forebear because it will be better for him to do so, because it will make him happier, because, in the opinion of others, to do so would be wise, or even right (Mill 1859, 9).

According to the harm principle, preventing harm is the only legitimate basis for interfering with a person's liberty without his or her consent. The principle excludes other reasons for interfering with a person's liberty, including interfering paternalistically for the person's own good or in his best interest.¹³

Another central piece in the paternalism literature is Feinberg's four-volume work, *The Moral Limits of the Criminal Law*. In this series, Feinberg develops and refines the Millian view of the limits of the state. Importantly, Feinberg introduces involuntariness as one condition under which a person's own

¹³ It also excludes interfering to prevent the person from acting immorally.

good or best interest *is* a valid ground for interfering with his or her liberty. Feinberg introduces the distinction between soft and hard paternalism:

Hard paternalism will accept as a reason for criminal legislation that it is necessary to protect competent adults, against their will, from the harmful consequences even of their fully nonvoluntary choices and undertakings (Feinberg 1986, 12).

Soft paternalism holds that the state has the right to prevent self-regarding harmful conduct (so far it *looks* 'paternalistic') *when but only when* that conduct is substantially nonvoluntary, or when temporary intervention is necessary to establish whether it is voluntary or not (ibid.)

The terminology might seem a bit misleading because, as Feinberg stresses, 'soft paternalism is really no kind of paternalism at all' (Feinberg 1986, 16). Soft paternalism should be seen as a refined interpretation of the anti-paternalism that he endorses. Both the harm principle and soft paternalism protect people from harm that they have not voluntarily consented to. However, in contrast to the harm principle, soft paternalism also applies to single-party cases in which a person only harms him- or herself. It should be mentioned that neither the harm principle nor soft paternalism hold that it is legitimate to prevent a person, A, from harming another person, B, if B has voluntarily consented to being harmed by A. The reason is, according to Feinberg, that '[t]o what a man consents he may be harmed, but he cannot be wronged. Mill's "harm principle", reinterpreted accordingly, is designed to protect him and others only from wrongful invasions of their interest' (Feinberg 1971, 108).

It is clear that Feinberg's interpretation of paternalism and anti-paternalism is focused on reasons. In contrast to anti-paternalists, paternalists affirm a specific kind of reason for interfering with people's liberty (Grill 2015). This focus on reasons is reflected in Feinberg's interpretation of the paternalistic principle:

It is always a good and relevant (though not necessarily decisive) reason in support of a criminal prohibition that it will prevent harm (physical, psychological, or economic) to the actor himself (Feinberg, 1986: 4 [Italics in original]).

Mill and Feinberg discuss the limits of state coercion. However, as Gert and Culver (1976) have pointed out, it is too restrictive to confine paternalism to criminal prohibition: 'paternalistic action need not be coercive or involve an attempt to interfere with liberty of action' (p. 46). Gert and Culver had Gerald Dworkin's early definition from 1972 as the main objective of their criticism.

In response, Dworkin (1988) recognises that ‘[t]here are other ways to paternalize’ (p. 122). First, because ‘the state has other ways of influencing people’s behavior’ (Dworkin 1988, 121), and second, there are other important interpersonal situations that we would like the definition to capture, which need not be liberty-limiting (Dworkin 1988, 121-122).

In Article 1 (Is Anti-Paternalism Enough?), Midtgaard and I seek to reconcile this broader interpretation of the scope of paternalism with Feinberg’s original formulation of the paternalistic principle. We suggest that ‘the cited formulation of the principle should be followed by something such as the following: “or any other mean apart from rational persuasion”. Such means affect negatively people’s “control over their own evaluation and deliberation”, their “independence,” or crucial aspects of their autonomy’ (Pedersen and Midtgaard 2018, 773).¹⁴

Another way in which Feinberg’s formulation may seem too restrictive is that it only focuses on preventing harm.¹⁵ Preventing harm is just one way of benefiting a person, and anti-paternalists will plausibly be opposed to liberty-limiting or autonomy-restricting policies that are justified with appeal to the reason that they ‘promote the interests, values, or good’ (Dworkin 2017) of the persons interfered with. Imagine, e.g., that A interferes with B in order for B to promote certain skills that might be good for B to have, but which B does not want.¹⁶ In view of these qualifications, I suggest the following rephrasing of the paternalist principle:

It is a good and relevant (not necessarily decisive) reason in support of interfering with the liberty or autonomy of voluntary agents, that such interferences improve the welfare, interests, values, or good of the agents ‘(where this includes preventing [their] welfare from diminishing’ (Dworkin 2017)).¹⁷

Anti-paternalists, by contrast, reject this view. Specifically, they deny that promoting a person’s good, values, or interests is ever a valid reason in favour of

¹⁴ Referring in this context to Scoccia (2008) and Hausmann and Welch (2010).

¹⁵ In fairness to Feinberg, it should be mentioned that he allows that one can endorse paternalism ‘in its extreme version’. According to extreme paternalism, it is justifiable to interfere with others to benefit or ‘to guide them, whether they like it or not, toward their own good’ (Feinberg 1971, 105).

¹⁶ It might be argued, however, that A’s interference actually prevents harm to B in the sense that A prevents B from having ‘*less positive welfare* than he or she would have had in absence of’ the interference (Holtug 2002, 369 [my emphasis]). Still, I revise the definition on this point to make sure that it not only captures situations in which the interference prevents the person from having ‘*more negative ... welfare* than she would have had in absence of’ interference (ibid. [my emphasis]).

¹⁷ Here ‘interfering’ should be read as implying ‘without consent’ (see Grill 2012).

interfering with the person's liberty or autonomy. To quote Feinberg, according to the anti-paternalist, 'paternalistic reasons never have *any* weight on the scales at all. In his eyes they are morally illegitimate or invalid reasons by their very natures, since they conflict head on with defensible conceptions of autonomy' (Feinberg 1986, 25-26). Thus, integral to the difference between paternalists and anti-paternalists is the kind of reasons they accept, with paternalists accepting a wider scope of reasons.

Feinberg's understanding of the distinction between paternalism and anti-paternalism is similar in nature to the view defended by Daniel Groll. According to both, we act paternalistically if 'we let the will of the person play a role in deciding what to do, but alongside this reason we always or sometimes allow considerations for his or her good to weigh in on the scales' (Pedersen and Midtgaard 2018, 773). Paternalism occurs as soon as we balance the voluntary agent's will with concerns for his or her own good. This implies that we may act paternalistically even when we end up not interfering. Groll illustrates this with a hypothetical case in which a doctor recommends a certain surgery for a patient, Bob, who refuses to receive the treatment. According to Groll, even if the doctor acts in accordance with Bob's will, the doctor may be acting paternalistically. The reason is that there is a relevant way in which the doctor can accommodate Bob's will without respecting it appropriately:

Suppose she [the doctor] tells Bob, 'I have decided that you should not have surgery, because you do not want it.' We can imagine Bob being surprised, and upset, at this way of putting things: 'What do you mean *you* have decided? It was not your decision to make!' The doctor here considered Bob's will as part of a larger set of considerations about what is good for Bob when, in fact, Bob's will should not have played that role in her deliberations (Groll 2012, 707).

To avoid paternalism, the doctor (and others) must treat the agent's will as 'structurally decisive' or authoritative, meaning that it trumps, silences, or excludes whatever beneficial reason we otherwise may have to interfere. According to the anti-paternalist, the welfare, interests, values, or good of the agents, as Kalle Grill puts it, 'do not play the role of reasons' in favour of intervention (Grill 2015, 47). This is how I understand the distinction between paternalism and anti-paternalism in this thesis.¹⁸ To situate my favoured account of paternalism within the recent literature regarding the concept of paternalism, in the next section, I briefly present and discuss three different interpretations, all of which form important contributions to the debate on paternalism.

¹⁸ In Article 3 (Harm to Self or Others), I adopt de Marneffe's definition. My argument in that article is, however, compatible with both understandings of paternalism.

4.2 Three Influential Accounts of Paternalism

A traditional way of defining a paternalistic act is through three conditions: i) an interference condition, ii) a consent condition, and iii) a benevolence condition (Grill 2012). One classic example of this is Dworkin's formulation for *The Stanford Encyclopedia of Philosophy*:

I suggest the following conditions as an analysis of X acts paternalistically towards Y by doing (omitting) Z :

Z (or its omission) interferes with the liberty or autonomy of Y .

X does so without the consent of Y .

X does so only because X believes Z will improve the welfare of Y (where this includes preventing his welfare from diminishing), or in some way promote the interests, values, or good of Y (Dworkin 2017).

As Dworkin is aware, there are some issues with his definition. First, if we accept the argument by Groll (2012) to the effect that the doctor can be acting paternalistically even if he does not act contrary to the will of the patient, this speaks against Dworkin's definition (as well as most other definitions) requiring that X actually interferes with the liberty or autonomy of Y . Some acts may be considered to be paternalistic even if they do not involve such interferences (Dworkin 2017).

Second, in condition 3, the phrase 'does so *only* because' is plausibly too restrictive. Imagine that X prevents Y from going mountain climbing for two reasons, one paternalistic and one non-paternalistic. X does so a) mainly because it would be bad for Y if an accident occurs, and b) because, but not mainly because, he wants to protect Y 's husband from the pains associated with losing his partner. Intuitively, X seems to be acting paternalistically, because the interests or well-being of the person interfered with are invoked as a main reason in favour of interference.

Third, what does it mean that ' X does (or omits doing) Z because ...'? Elsewhere (also in *The Stanford Encyclopedia of Philosophy*), Dworkin writes that paternalistic interferences are '*defended* or *motivated* by a claim that the person interfered with will be better off or protected from harm' (Dworkin 2017 [my Italics]). So, X may either have a certain paternalistic motive or defence of his act. However, as Dworkin points out, 'what about the case where a legislature passes a legal rule for paternalistic reasons, but there are sufficient non-paternalistic reasons to justify passage of the rule?' (ibid.). As we shall see, according to Peter de Marneffe, this would imply that the policy is not paternalistic. However, I disagree with de Marneffe on this point. I will revert to the reason *why* later.

Some believe that *all* paternalistic acts are paternalistically motivated. E.g., Shiffrin (2000) offers the following influential motivational account of paternalism:

[P]aternalism by A toward B may be characterized as behavior (whether through action or through omission)

- (a) aimed to have (or to avoid) an effect on B or her sphere of legitimate agency
- (b) that involves the substitution of A's judgment or agency for B's
- (c) directed at B's own interests or matters that legitimately lie within B's control
- (d) undertaken on the grounds that compared to B's judgment or agency with respect to those interests or other matters, A regards her judgment or agency to be (or as likely to be), in some respect, superior to B's (p. 218).

Shiffrin wants her definition to reflect the special insulting motive that she believes characterises all paternalistic acts and policies (Shiffrin 2000, 220). Her definition is atypical in the sense that it does not require that A's behaviour is directed at B's interests or welfare. A may act paternalistically, even if he does not intend to promote B's interests or well-being or prevent harm to B. It is enough that he interferes with 'matters that legitimately lie within B's control'. Based on Shiffrin's definition, A would e.g. be acting paternalistically toward B if A spends B's money for charity, not for the sake of B, but for the sake of the good purposes of the relevant humanitarian organisation and on the ground that A believes that he can make a better decision than B in these matters. Shiffrin attempts to capture a certain 'normative reaction' which we will not only find in cases of benevolence. Also, while A's act does not benefit B, it may possibly give rise to a normative reaction that is similar to the anti-paternalist response to benevolent interferences. Although A does not seek to benefit or prevent harm to B, the case involves 'intrusion into and insult to a person's range of agency' (Shiffrin 2000, 218). It is, however, disputed whether we should define paternalism by all acts that intrude and insult a person's range of agency, or only the benevolent ones.¹⁹

Shiffrin's definition of paternalism centres on the paternalistic motive. Nevertheless, as de Marneffe points out, the normative reaction against paternalism seems not only to be a reaction to an insulting paternalistic motive, but also to a certain type of deficient or problematic justification:

Government policies that limit our choices in ways that we do not want stand in need of justification. So it is important to identify the kinds of reason that can justify the government in adopting policies of this kind (de Marneffe 2006, 76).

¹⁹ For views on both sides, see (de Marneffe 2006, 78-79; Begon 2016, 363; Midgaard 2016).

As specified above, opponents of paternalism believe that promoting the interests or good of persons cannot justify interfering with the persons' freedom or autonomy. Interference on a paternalist basis is unjustified. According to de Marneffe, Shiffrin's definition does not capture the justificatory aspect of our normative reaction to paternalism:

[I]f [...] Shiffrin's 'motive-based characterization of paternalism' is correct, it is, strictly speaking, not necessary to provide a plausible nonpaternalistic rationale for this policy in order to show that it *need not* be paternalist, since the mere psychological possibility of a nonpaternalistic motive, no matter how feeble a justification it provides, suffices to show this (de Marneffe 2006, 71).

However, anti-paternalists will plausibly oppose policies interfering with people's liberty or autonomy that cannot be adequately justified on a non-paternalistic basis even if they were in fact non-paternalistically motivated. To reflect the justificatory aspect of paternalistic policies, de Marneffe adds a certain condition, to wit condition (d) below, to his favoured account of paternalism. According to de Marneffe (2006):

[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 favor (pp. 73-74).

This definition has an interference condition (a), a consent condition (b), and two beneficiary conditions, one motivational (c) and one justificatory (d) (Grill 2009, 10). Nevertheless, the addition of the justificatory condition does not solve the problem that de Marneffe points out about Shiffrin's definition in the quotation above. Like Shiffrin, de Marneffe includes paternalistic motivation as a necessary condition for paternalism. Therefore, it *also* follows from de Marneffe's definition that the 'possibility of a nonpaternalistic motive, no matter how feeble a justification it provides, suffices to show' that the policy under consideration '*need not* be paternalist' (de Marneffe 2006, 71).

In the next section, where I present and discuss the so-called project of reconciliation, I will address a certain implication of de Marneffe's inclusion of the justificatory condition. It implies that 'if there is sufficient nonpaternalistic reason for a policy, then it is not paternalistic' (de Marneffe 2006, 74).

4.3 The Project of Reconciliation

As many authors have pointed out, some policies that appear paternalistic also seem highly reasonable (de Marneffe 2006, 70; Feinberg 1986, 25-26; Arneson 2005, 272; Begon 2016, 364). Such policies challenge anti-paternalism: if some policies that appear paternalistic are plausible, why should we accept principled anti-paternalism? In view of this challenge, many opponents of paternalism have sought to show that the apparently paternalistic policies are in fact not truly paternalistic. They seek, as Feinberg puts it, 'to reconcile our general repugnance for paternalism with the seeming reasonableness of some apparently paternalistic regulations' (Feinberg 1986, 25). Specifically, they have identified non-paternalistic justifications of the policies in question (i.e. justifications that do not appeal to the interests or well-being of the persons interfered with). In Article 2 (On the Anti-Paternalist Project of Reconciliation), I provide some examples:

Seana Shiffrin defends the unconscionability doctrine, which permits courts to refuse to enforce unconscionable contracts. Joel Feinberg defends motorcycle helmet laws. Elizabeth Anderson invokes a non-paternalistic rationale for mandatory contributions to health insurance programmes, and Paul Bou-Habib defends policies making it compulsory for imprudent people to insure themselves (Pedersen 2019a, 20-21).

If successful (i.e. if they manage to show that the relevant policies can be adequately justified in a non-paternalistic way), reconciliation theorists seem to refute potential counterexamples to anti-paternalism. For the same reason, the project of reconciliation has played a significant role in the debate between paternalists and anti-paternalists.

Furthermore, as Bou-Habib argues, the anti-paternalistic project of reconciliation provides a possible solution to the imprudence trilemma. Bou-Habib defends a non-paternalistic compulsory insurance scheme which ensures funds for treatment to the imprudent in case their risky activities materialise and cause harm. Through such a scheme, we would not have to leave e.g. the biker unassisted. However, we let him bear the costs associated with his crash himself. As Bou-Habib (2006) puts it,

In a nutshell, the argument is that we may compel others to insure themselves, not for their sake, but for our own sake. If the argument succeeds, then we can avoid the trilemma. Compulsory insurance would ensure a guaranteed minimum for all, exploit no one, and respect non-paternalism (p. 251).

Accordingly, the reconciliation strategy is not only relevant to the question of whether we should abandon the non-paternalism horn of the imprudence trilemma. As Bou-Habib shows us, it offers a way to satisfy all three desiderata of the imprudence trilemma simultaneously.²⁰

My thesis points out some serious problems with this reconciliatory response to the trilemma. Specifically, I show that the way in which the reconciliatory project has been carried out is problematic. As a general objection, ‘I argue that the procedure sets the bar too low with respect to the criteria that relevant non-paternalistic reasons should meet’ (Pedersen 2019a, 23). The problem is that, ‘[w]hile anti-paternalists undertaking the project of reconciliation may identify *sufficient* reasons for endorsing seemingly paternalistic policies under realistic circumstances, they often fail to provide *satisfactory* reasons that adequately reflect our concerns pertaining to such policies’ (Pedersen 2019a, 21). My papers show in more detail how many specific reconciliation arguments suffer from this particular shortcoming. In Article 2 (On the Anti-Paternalist Project of Reconciliation), I lay out the general argument. However, I point to deficiencies of anti-paternalist arguments of this very nature in all my papers. I address: (i) Bou-Habib’s so-called public charge argument referred to above; (ii) the psychic-costs-to-others argument provided by Feinberg and others; (iii) Feinberg’s soft paternalistic argument; (iv) Anderson’s relational egalitarian argument (i.e. the Kantian-inspired argument appealing to other people’s duty to recognise the imprudent person’s moral worth); (v) the legal moralistic argument; and (vi) Shiffrin’s argument appealing to other people’s interest in not facilitating imprudent behaviour.²¹ In the rest of this section, I will briefly describe how the project of reconciliation has been performed and the exact problem with this procedure. However, I can assure the reader that you will find more about this in the respective papers.

An underlying assumption in the literature on the project of reconciliation seems to be that ‘in so far as one may present a non-paternalistic reason that is sufficient to justify the policy in question, one has shown that the policy is simply not paternalistic’ (Pedersen 2019a, 21). As pointed out above, this is e.g. the view defended by de Marneffe (2006). That a reason is ‘sufficient’ in this context means that it justifies the policy in question without counting in its favour the interests or well-being of the persons interfered with (here, I am inspired by condition d) in de Marneffe’s definition of paternalism). That the

²⁰ While Bou-Habib defends compulsory insurance, it should be mentioned that non-paternalistic arguments for other internalising policies (e.g. prohibitions that prevent harm – and thus associated costs – from occurring to begin with) would serve the same purpose.

²¹ See also Article 5 (The Imprudence Trilemma), note 57.

reason 'justifies' the policy implies that it 'defeat[s] the reasons against' the policy (Midtgaard 2016). In accordance with this, opponents of paternalism have identified and developed arguments for the seemingly paternalistic policies which do not imply paternalistic appeals.

In a nutshell, my objection to this procedure is that even if it is possible to find a sufficient reason for a policy, it is unsatisfactory to let the justification of the policy rely on that particular reason, if the reason does not adequately reflect *why*, intuitively, we find the policy reasonable. I argue that often our intuitive reaction (that the seemingly paternalistic policies seem plausible) persists and does so without any detraction from its strength irrespective of whether the factors that the non-paternalistic arguments rely on (e.g. costs or psychic harm to others) are present. If I am right about this, the anti-paternalistic reconciliation theorists have not avoided the challenge raised in the beginning of this section: if the seemingly paternalistic acts and policies remain intuitively plausible in the circumstances appearing when we abstract from non-paternalistic factors, why should we accept principled anti-paternalism? For the project of reconciliation to avoid *this* challenge, it should be the case that, intuitively, we would not want the policies if it were not for the non-paternalistic reasons that they identify.

Against this background, I conclude that i) the project of reconciliation has not managed to fend off important counterexamples to anti-paternalism in a satisfactory way, and ii) the strategy does not offer a satisfactory solution to the trilemma. (Recall that the latter was the promise of at least some of the reconciliatory proposals, including Bou-Habib's.) My argument to the effect that anti-paternalism is vulnerable to hypothetical counterexamples may pull us toward a paternalistic approach to the trilemma. According to this approach, paternalistic reasons have justificatory relevance: regulations of imprudent activities should be evaluated in a way that includes a concern for the interests or well-being of the people interfered with (de Marneffe 2006, 69). Naturally, the counterexamples to anti-paternalism do not amount to sufficiently proof that our response to the imprudence trilemma should be to reject the concern of non-paternalism: First, because anti-paternalists may have good reasons to 'bite the bullet' and hold onto their opposition to paternalism. In this context, as we have seen, one important objection to paternalistic acts and policies is that they insult or deliver a disrespectful message to the people subjected to them. Second, because we may have better reasons to give up one of the other desiderata instead. E.g., it is not given that we should necessarily ensure cost-sensitivity at the expense of non-paternalism in order to guarantee sufficiency. In this context, an unconditional assistance approach might be preferable to accepting paternalism.

In the following chapters, I will explain how my project addresses these challenges. In chapter 5, I introduce my response to the disrespect objection to paternalism. However, the reader will find much more about this in Article 4 (Paternalistic Respect and Concern). In chapter 6, I initiate an argument to the effect that a plausible version of the unconditional assistance approach implies aspects of paternalism. My full argument for this is to be found in Article 5 (The Imprudence Trilemma). If I am right that even unconditional assistance should imply paternalism, it becomes difficult to see that we have better alternatives than to accept paternalism in response to the trilemma.

Chapter 5: Responding to the Objection Regarding Disrespect

As mentioned above, it is a common view that paternalism is disrespectful (Hanna 2018, 56). In this chapter, I will briefly present this criticism and describe how my project responds to it, especially through Article 4 (Paternalistic Respect and Concern). However, I also aim to show how Article 1 (Is Anti-Paternalism Enough?) and Article 5 (The Imprudence Trilemma) inform and substantiate this response.

It is difficult to provide a general account of what constitutes respect because we use the term to refer to different kinds of attitudes (Darwall 1977, 37-38). Similarly, one may express lack of respect or disrespect toward another in various ways. Here are three examples which have all received attention in the literature on paternalism. First, one can express disrespect by showing disapproval of someone, e.g. in view of the person's aptitudes, abilities, or accomplishments (Fox 2019, 323; Darwall 1977).²² Second, one can express disrespect by not 'showing due regard for a person's desires, values, preferences, and rights' in the way we act toward the person (Pedersen 2019c).²³ Stephen Darwall (2002) e.g. describes 'respect's reasons' as follows: 'A person's own values and preferences give *her* reasons to realize and promote them, and *others* reasons to permit her to do so' (pp. 14-15). Third, one can express disrespect toward another person by not recognising the person's moral worth or status (Anderson 1999, 319).

Paternalism might be seen as expressing disrespect in all three ways. *First*, several critics have argued that paternalism shows disapproval of people's abilities, e.g. people's 'practical reasoning' or 'willpower' (Quong 2011, 81). As Anderson puts it, paternalism is expressive of disrespect as it delivers a message that the people interfered with 'are too stupid to run their lives, so Big Brother will have to tell them what to do' (Anderson 1999, 301). A similar view is expressed by Cornell who writes, '[i]t is usually insulting to be told that you

²² Some believe that being disrespected in this way is not, in itself, something that you are morally entitled to avoid. According to Enoch (2015), we are e.g. not morally entitled to demand that others esteem us in view of our capacities (if the negative judgment is 'supported by the evidence'). 'What is problematic is *acting* on the judgment, or being motivated by it' (p. 44 [my emphasis]). See also Fox (2019, 325-326).

²³ Referring in this context to Darwall (2002, 14-15).

do not know best with regard to your own matters' (p. 1316). Moreover, according to Tsai (2014), '[a]utonomous agents ... have reason to find the paternalistic action insulting, insofar as the paternalistic action conveys that they are insufficiently capable of advancing their own interests' (pp. 85-89). However, in Article 4 (Paternalistic Respect and Concern), I argue that the paternalising agent needs not necessarily show such disapproval of the paternalised's competences. The paternalising agent might acknowledge that the person interfered with is perfectly capable of catering to his or her own interests and does not lack the cognitive capacity to do so. As an example, in the paper I consider a case in which Susan interferes with Paul's decision to donate his only healthy kidney. She does so, not because she thinks that Paul is 'too stupid' or unable to promote his own good, but because she cares for him and finds him too self-sacrificing or selfless to foreground these capacities in his decision-making (Pedersen 2019c, section 6).

Second, by expressing willingness to interfere with competent people, without their consent, in their self-regarding affairs, paternalists may be considered not to show due regard for people's own values, preferences, and rights (Darwall 2002, 15). The latter relates to the *third* way in which paternalists may be seen as disrespectful, because by overriding a person's own will in self-regarding matters, paternalists may fail to recognise the person's moral worth or status. As Carl Fox puts it, '[w]e secure one another's status as agents by drawing some borders around the decisions that are exclusively ours to make. To interfere in a context where I ordinarily have the right to be the one in charge is to call my status into question' (Fox 2019, 323). However, that is not to say that the second and third forms of disrespect collapse into one. Recognising a person's moral worth and status is not necessarily the same as regulating one's action toward the person in view of his or her desires, values, and preferences. Indeed, as Anderson (1999) puts it, 'there are some things one may never do to other people, such as to enslave them [and such as to abandon them dying by the side of the road] (p. 329), even if one has their permission or consent' (p. 319). According to this view, recognising a person's moral worth and status 'is not conditional upon anyone's desires or preferences, not even the individual's own desires' (Anderson 1999, 319).

In Article 4 (Paternalistic Respect and Concern), I argue that this third way of understanding respect can be reconciled with paternalistic acts and policies. Specifically, the paper argues that A fails to recognise 'the moral worth of B if A stands idly by when B is about to act in a way that may irrevocably land him or her in an insufficient situation' (Pedersen 2019c). In order to express respect for B in the relevant sense, A should sometimes interfere with B for the sake of B. The argument in Article 4 draws threads to and develops the concern

of *avoiding insouciance* that Midtgaard and I identify in Article 1 (Is Anti-Paternalism Enough?). As we write, '[i]nsouciance, in brief, represents the inaction of others with respect to stages prior to a person ending up in a thoroughly bad situation' (Pedersen and Midtgaard 2018, 772). We further argue that to ensure sufficiency for a person, others must cater to a concern of avoiding insouciance. In Article 4 (Paternalistic Respect and Concern), I argue that the concern of avoiding insouciance is not only a distributive or outcome-focused concern of ensuring people a sufficient level of advantage, but also an expressive respect-based concern of recognising other people and their moral worth. The idea can be illustrated through the following example which I provide in the paper:

Suppose that Joe wants to tease Ben and pretends that he is about to drink a cup of anti-freeze. However, the contents of the cup are not anti-freeze but a rare kind of harmless soda that can easily be confused with anti-freeze. ... [Joe] asks Ben not to stop him and convinces Ben that drinking anti-freeze is in fact a voluntary decision. In response to Joe's request, Ben remains passive while Joe empties the cup. After having emptied the cup, Joe looks at Ben with a very serious and disappointed expression on his face: 'Come on, Ben! Would you really let me do that? Is that how you appraise my moral worth?' Admittedly, few people speak that way. Nevertheless, even if we grant that Joe's little stunt is distasteful and that Joe asked for it himself (and even if Joe and Ben were not friends but just fellow citizens), Joe's disappointment over Ben's passive reaction seems, at least partly, reasonable in this case. When Ben stands idly by, he seems to disregard the moral worth of Joe (Pedersen 2019c).

As I write in the paper, I understand my argument in a paternalistic way. In my view, 'the most obvious reason why Ben seems to disregard the moral worth of Joe if he does not intervene arguably rests on Joe's interest in avoiding poisoning' (ibid). Nevertheless, it seems possible to provide a non-paternalistic interpretation of my argument. According to this interpretation, Ben interferes with Joe, *not* out of a concern for Joe's interests or well-being, but simply to respect Joe and his moral worth. In Article 4 (Paternalistic Respect and Concern), I do not address the possibility of appealing to this non-paternalistic argument in detail.

However, in Article 5 (The Imprudence Trilemma), I challenge a non-paternalistic argument of the above kind. Specifically, I scrutinise Anderson's non-paternalistic justification of disallowing people to waive their right to be offered assistance. The paper reconstructs the relevant argument which, *when transferred to the anti-freeze case*, can be read as follows:

1. If Ben prevents Joe from drinking the anti-freeze, then in doing so, Ben acts paternalistically if and only if Ben acts out of concern for Joe's interests.
2. It is possible that Ben prevents Joe from drinking the anti-freeze, and in doing so, Ben acts out of respect for the moral worth of Joe.
3. If Ben acts out of respect for the moral worth of Joe, then Ben does not act out of concern for Joe's interests.
4. Thus, it is possible that Ben prevents Joe from drinking the anti-freeze and in doing so Ben does not act paternalistically.²⁴

In Article 5 (The Imprudence Trilemma), I argue that Anderson's non-paternalistic argument for disallowing people to waive their right to be offered assistance is not satisfactory as it 'is vulnerable to the objection that it fails to adequately reflect our ultimate concerns pertaining to the act of disallowing a person to be offered assistance' (Pedersen 2019d; see also Pedersen 2019a). If my objection to her argument is sound, it applies, *mutatis mutandis*, to the argument sketched above.

The upshot is that there are important ways in which paternalism is expressive of respect (and anti-paternalistic inaction is expressive of disrespect). Accordingly, it seems that one cannot outright reject paternalistic reasons on the ground that they deliver a disrespectful message. The picture is more nuanced than that and sometimes, the aspects in which paternalism is respectful may plausibly overshadow the aspects in which it is (or at least can be) disrespectful.

²⁴ For Anderson's argument, see (Anderson 1999, 319, 329).

Chapter 6: Considering Two Alternatives to Regulations

Until now, my arguments have concerned a certain response to the imprudence trilemma which suggests regulating people's risky activities, e.g. by introducing security measures or compelling the imprudent to take out insurance. Specifically, my arguments suggest that the most satisfactory justification for interfering with people's imprudent activities in such ways includes a paternalistic concern for the interests or well-being of the people subjected to the relevant regulations. However, as I pointed out in the introduction, there are other possible responses to the trilemma than regulating activities. In this chapter, I will briefly present how my project considers two influential alternatives that have received much attention in the literature on the imprudence trilemma – *the no assistance approach* and *the unconditional assistance approach* (see e.g. Williams 2006, 501-503; Bou-Habib 2006, 244-251; Huseby 2018).

The first alternative solution is the no assistance approach, i.e. to reject regulations and leave people unassisted in the event of an emergency. In view of the trilemma, two points in favour of this solution are, one, that it avoids paternalism and, two, that it avoids cost-displacement. Still, as many theorists have argued, leaving people unassisted 'in *situations of insufficiency*, below a threshold of decency, or with some of their basic needs not attended to' (Pedersen and Midtgaard 2018, 774) seems unduly *harsh* and incompatible with our fundamental intuitions about justice (Anderson 1999, 296; Jones 1985, 154; Voigt 2007; Bou-Habib 2006, 249-250; Huseby 2018). Accordingly, we should plausibly look for other alternatives.

As stated in chapter 2, Article 5 (The Imprudence Trilemma) serves to illustrate how my findings in the other four papers of this dissertation responds to the overall research question (i.e. how should we respond to the imprudence trilemma?). The paper addresses unconditional assistance as an important alternative to either regulating activities or leaving people unassisted in emergencies. As Bou-Habib describes the unconditional assistance approach, its proponents hold 'that there is an enforceable duty (a duty of justice) to transfer resources to people in order to redress their vulnerable predicament regardless of how those people got themselves into their vulnerable predicament' (Bou-Habib 2006, 246). The unconditional assistance approach avoids the harshness problem referred to above. However, to its disadvantage, the

approach involves cost-displacement, i.e. it lets people impose the costs of their 'avoidable imprudent conduct' on others (Bou-Habib 2006, 247).

Irrespective of this consideration regarding cost-sensitivity, I raise some alternative issues about the unconditional assistance approach.²⁵ Specifically, in Article 1 (Is Anti-Paternalism Enough?), Midtgaard and I argue that the approach is unsatisfactory with respect to ensuring sufficiency, because people often engage in activities causing predicaments that cannot be rectified once the injury has occurred. Sometimes, to avoid insufficiency, we must introduce regulations that prevent the risks involved in the imprudent activities from materialising to begin with, e.g. mandating security measures such as helmets or safety vests.

Moreover, in Article 5 (The Imprudence Trilemma), I argue that unconditional assistance in the form of a collectively funded health insurance scheme plausibly implies aspects of paternalism. Under such health insurance scheme, all must contribute and all are offered treatment when needed, regardless of the cause of their needs. Even 'the person who would not purchase insurance for himself' must be enrolled (Anderson 1999, 330). According to Anderson, we can justify this non-paternalistically with reference to the enforceable duty that we all have to offer assistance to others:

You have a moral worth that no one can disregard. We recognize this worth in your inalienable right to our aid in an emergency. You are free to refuse this aid once we offer it. But this freedom does not absolve you of the obligation to come to the aid of others when their health needs are urgent. Since this is an obligation we all owe to our fellow citizens, everyone shall be taxed for this good, which we shall provide to everyone. This is part of your rightful claim as an equal citizen. (Anderson 1999, 330-331).

By contrast, as I write in Article 5 (The Imprudence Trilemma), I argue 'that what justifies unconditional health insurance is not *only* the services it makes available for others; self-regarding goods form an integral part of a satisfactory justification.' That is not to say that Anderson's non-paternalistic reason does not form *part of* a satisfactory justification, but in my view, it fails to adequately reflect all the morally salient factors pertaining to the relevant scheme. To substantiate this view, I draw attention to the fact that Anderson's non-paternalistic reason does not justify enforcing the enrolment of those who stand to benefit from such a scheme on balance, but who would rather be without. Why must these people be enrolled?

²⁵ In Article 3 (Harm to Self or Others) and Article 5 (The Imprudence Trilemma), I argue that in many cases of relevance to the imprudence trilemma this concern of internalising the costs of people's risky activities is not a primary concern.

One possible response to this challenge is that *everyone* must be enrolled, not necessarily because the enrolment of each person would contribute to making assistance available to others, but because the right to be offered assistance is inalienable (cf. the quote above). According to Anderson, people are not free to give up their right to be offered assistance. Therefore, they must be offered health care whether they like it or not. At a first glance, denying people the liberty to give up their right to be offered assistance seems paternalistic. However, Anderson defends the relevant practice with appeal to a non-paternalistic justification. Specifically, she argues that we may disallow people to waive their right to be offered assistance, not out of a concern for their interests or well-being, but out of respect for their moral worth and dignity.

In Article 5 (The Imprudence Trilemma), I argue that the most satisfactory justification of the non-waiveability of the right to be offered assistance includes appeals to a concern for the interests or well-being of the right holder. Such paternalistic concerns represent a morally salient and indispensable factor in our reasons to offer people treatment without their consent.²⁶ If I am right about this, it is most plausibly paternalistic to deny people the freedom to waive the right in question. Accordingly, a reasonable version of the unconditional assistance approach seems to imply paternalistic appeals. If we combine this point pertaining to unconditional assistance with my general objections to the procedure of the project of reconciliation, it seems to become difficult to find satisfactory approaches to the trilemma that do not imply at least some elements of paternalism.²⁷

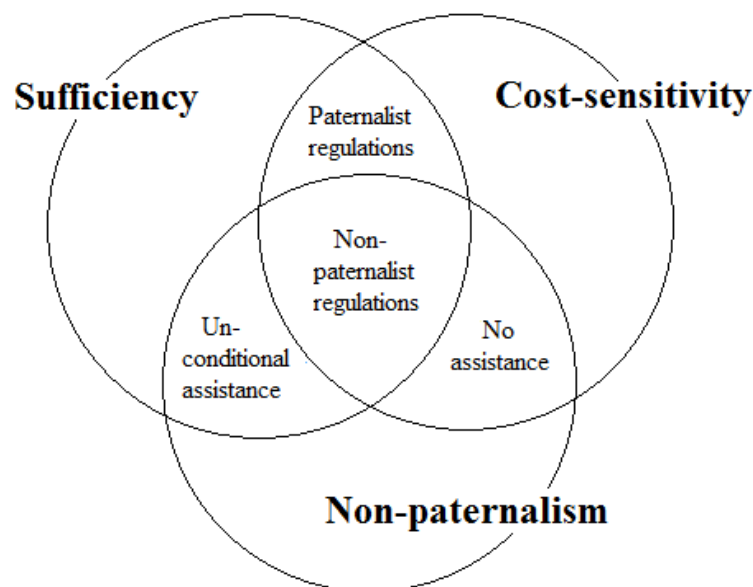
²⁶ Moreover, in Article 5 (The Imprudence Trilemma), I further argue that Anderson's argument can be perceived as paternalistic in relation to Shiffrin's understanding of paternalism. How others respond to one's moral worth and status is arguably included in 'matters that legitimately lie within [one]'s control' (Shiffrin 2000, p. 218).

²⁷ In fact, Anderson's non-paternalistic defence of universal health insurance is an instance of the reconciliation strategy.

Chapter 7: The Trilemma Revisited

As indicated in the previous chapters, my project is challenging traditional views on the imprudence trilemma in several respects.²⁸ In this final chapter before the conclusion, I would like to draw attention to the ways in which my project brings to light new aspects of the imprudence trilemma. Greatly inspired by Paul Bou-Habib (2006), I will illustrate what I describe here as ‘the general view’ on the imprudence trilemma through the following figure:

Figure 1: ‘The Imprudence Trilemma’ (see Bou-Habib 2006, 251).²⁹



The figure shows how the general view considers four different responses to the imprudence trilemma. The first response is the no assistance approach.

No assistance satisfies non-paternalism and costs-sensitivity, but compromises sufficiency.

The two alternative approaches to the trilemma considered in this context cater to sufficiency, but as Williams (2006) puts it, they ‘differ in how they treat

²⁸ For what I describe here as ‘the general view,’ see Williams (2006), pp. 501-503; Bou-Habib (2006), pp. 244-251; Huseby 2018.

²⁹ Note that Bou-Habib uses some different terms.

externalities, or the unintended effect on others of individual decisions' (p. 501). The unconditional assistance approach allows costs to third parties, whereas the regulation approach internalises the costs of people's risky activities through regulations that either prevent the risky activities from materialising or ensure that funds are available (e.g. for treatment) when the imprudent activities do materialise. Thus, different weightings of the trilemma are made.

Unconditional assistance satisfies sufficiency and non-paternalism, but compromises cost-sensitivity.

Paternalistic regulations satisfy sufficiency and cost-sensitivity, but compromises non-paternalism.

However, as described above, non-paternalistic regulations have been presented as a possible solution to the trilemma (as it is possible to regulate activities with appeal to non-paternalistic reasons).

Non-paternalist regulations satisfy sufficiency, costs-sensitivity, and non-paternalism.

This is what I understand by the general view on the imprudence trilemma. My project challenges the general view in the following ways:

First, as described in chapter 4, my objections in Article 2 (On the Anti-Paternalist Project of Reconciliation) and Article 3 (Harm to Self or Others) to the project of reconciliation cast doubt on whether non-paternalist regulations represent a satisfactory solution to the trilemma.

Second, in Article 5 (The Imprudence Trilemma), I argue that there are relevant differences between paternalist regulations and non-paternalist regulations with respect to how they prioritise the concern of sufficiency and cost-sensitivity, respectively. Proponents of paternalist regulations will plausibly prioritise sufficiency over cost-sensitivity, whereas proponents of non-paternalist regulations make the opposite prioritisation. This difference between the two views, I argue, gives rise to some very different responses to certain situations in which people act profoundly imprudently. In some hypothetical cases, people's risky activities *only* give rise to costs to third parties *if* we interfere in order to prevent insufficiency. Sometimes, people act imprudently in ways that do not give rise to costs to third parties unless we interfere. Imagine in this context the following case of Prudie that I present in Article 3 (Harm to Self or Others). Prudie wants to cross the Grand Canyon using a

homemade ropeway. If Prudie crashes, she will certainly not survive. We can compel Prudie to wear a parachute. However, as I write in the paper:

This precaution will ensure that if Prudie crashes, the parachute will slow down her fall enough so that she will not die immediately, but instead will merely break her legs. Accordingly, there might now be need for an expensive rescue operation as well as further treatment (hospital treatment, rehabilitation, psychological care, etc.). These costs arise only because Prudie uses a parachute (Pedersen 2019b).

I argue that in such cases, the non-paternalistic reasons fall short of justifying interference. They are simply not available. By contrast, the paternalistic reasons are still available, and the concern of cost-sensitivity will probably not get paternalists to avoid interference. From this, I conclude that non-paternalistic regulations do not go hand in hand with sufficiency and that paternalistic regulations do not go hand in hand with cost-sensitivity.

Third, as described in chapter 6, in Article 1 (Is Anti-Paternalism Enough?), Midtgaard and I argue that there are relevant differences between paternalist regulations and unconditional assistance with respect to the ability of the two approaches to satisfy the concern of ensuring sufficiency. Sometimes, it is not enough to provide assistance when people's risky activities have already materialised. Instead, we must prevent the harm from materialising to begin with.

Fourth, as I also presented in chapter 6, Article 5 (The Imprudence Trilemma) argues that the unconditional assistance approach plausibly implies at least some aspects of paternalism.

Finally, if one plausible qualification of the 'non-paternalism' horn of the imprudence trilemma is 'avoiding disrespectful paternalism,' then my arguments in Article 4 (Paternalistic Respect and Concern) suggest that paternalistic regulations sometimes represent a potential solution to the trilemma. I write 'sometimes' because, as I just pointed out, paternalist regulations do not necessarily go hand in hand with cost-sensitivity, and of course I do not claim that the ways in which paternalism is respectful will always outweigh the ways in which it can be disrespectful such that paternalism is never disrespectful all things considered.

Chapter 8: Conclusion

How should we respond to the imprudence trilemma? In this dissertation, I have argued that we have good reasons to accept paternalism when people act imprudently in such ways that they expose themselves to the risk of suffering serious, absolute deprivation (i.e. in cases of relevance to the trilemma). What does it mean to say that we should accept paternalism? It means that we should endorse the paternalist view that it is a good and relevant (not necessarily decisive) reason in support of interfering with the liberty or autonomy of voluntary agents that such interferences improve the interests and well-being of the agents. According to this view, we should evaluate possible policies and actions that in various ways interfere with the imprudent in order to address their needs by *including* the paternalistic reasons in favour of such policies and actions in the assessment.

Why do I think that our response to the trilemma should be to approve the paternalist view? First, because there are relevant ways in which interferences grounded in a concern for the interests or well-being of the agents interfered with are sometimes expressive of respect and concern for those agents (and where refraining from interfering in such ways would be problematic, expressively speaking). Through paternalistic interference, one can specifically express recognition of another person's moral worth and dignity (respect) and express that one cares about the person (concern). Second, because paternalistically justified interferences with people's freedom or autonomy are better able to satisfy the important concern for sufficiency than the (avowedly) non-paternalistic alternative approaches are.

Other than that, many apparently paternalistic policies and actions seem intuitively reasonable, and the strategy of defending these policies non-paternalistically (i.e. with appeal to non-paternalistic reasons) has proven vulnerable to hypothetical counterexamples. To adequately reflect our underlying moral considerations pertaining to the intuitively reasonable policies and actions we must, it seems, make room for paternalistic reasoning in their justification.

Relatedly, I have argued that it is difficult to come up with satisfactory *non-paternalistic* responses to the trilemma. Specifically, I have addressed the following three non-paternalistic alternatives: i) no assistance, ii) non-paternalistic regulations, and iii) unconditional assistance. I have argued that i)

is the poorest alternative, that often, paternalistic regulations are more compellingly justified than ii), and that paternalistic unconditional assistance is more compellingly justified than iii).

Finally, it might be relevant to reflect on the practical implications of the above results. In my opinion, the overall result that we should endorse the paternalist view is of both theoretical and practical relevance. Specifically, it has consequences for how we should argue about policies interfering with people's profoundly imprudent activities. When assessing different ways of regulating people's behaviour in terms of e.g. smoking, mountain climbing, or motorcycling, I share de Marneffe's verdict 'that our evaluation of such policies will be more sensitive to the relevant considerations if we freely consider the paternalistic reasons in their favor' (de Marneffe 2006, 69). The paternalistic view allows us to explore and embrace liberty-limiting policies for paternalistic reasons – reasons the relevance and importance of which have been clarified and sought validated in this thesis – instead of being focused on identifying non-paternalistic rationales that are less intuitively compelling.

However, the extent to which the state should actually engage in paternalistic policies depends on a number of practicalities. Some authors have argued that we should generally seek to avoid extending the discretionary power of the state and public officials because of the potential perils associated with doing so. (E.g. due to incompetent or immoral public officials, risks associated with enforcing policies, including problems of domination and racial profiling, or more generally the risk of imposing disproportionate burdens on vulnerable people (see e.g. Flanigan 2016)). It is completely consistent with the paternalist view, though, to hold that in some cases, the above perils will tend to outweigh the paternalistic reasons in favour of interference (Hanna 2018, 37). On the paternalist view, it is of course crucial that the policies and actions under consideration actually tend to cater to people's interests or well-being. This is exactly the kind of reasons that according to the paternalist view are considered 'good and relevant.'

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Dansk resumé

Denne afhandling undersøger, hvordan man bør forholde sig til situationer, hvor en person handler særdeles uforsigtigt med hensyn til vedkommendes egne interesser eller velfærd. Vi kan fx forestille os motorcyklisten, som foretrækker at køre uden hjelm og uden forsikring. Hvordan bør samfundet forholde sig til, at nogle borgere handler på denne uforsigtige måde?

En mulighed er, at vi forholder os passivt, dvs. vi undlader at begrænse personens handling, og samtidig tilbyder vi ikke assistance i de tilfælde, hvor risikoen ved aktiviteten materialiserer sig. En anden mulighed er, at vi regulerer den uforsigtige handling forud for ulykken (fx ved at tvinge vedkommende til at tegne forsikring, påbyde sikkerhedsudstyr eller måske endda forbyde aktiviteten). En tredje mulighed er, at vi lader personen udføre den uforsigtige handling, men tilbyder vedkommende vores ubetingede, skattefinansierede hjælp, hvis uheldet er ude. Uanset hvad vi vælger i den pågældende situation, synes vores valg at kompromittere mindst et af tre vigtige moralske hensyn til i) at sikre tilstrækkelighed, ii) at undgå paternalisme eller iii) at internalisere omkostningerne forbundet med den uforsigtige aktivitet hos de personer, der udfører den. Af samme grund er det blevet påpeget, at de tre hensyn tilsammen udgør et trilemma, det såkaldte 'uforsigtighedstrilemma'.

Afhandlingen diskuterer, hvordan vi bør respondere på ovenstående trilemma. Jeg argumenterer for, at vi bør acceptere paternalisme i situationer, hvor trilemmaet er relevant (dvs. i situationer, hvor folk handler så uforsigtigt, at de risikerer at lide alvorlige, absolutte afsavn). Det betyder *ikke*, at vi altid bør gribe ind, når folk handler særdeles uforsigtigt. Det paternalistiske synspunkt, der forsvares, er, at det er en god og relevant (men ikke nødvendigvis afgørende) grund til at begrænse en persons frivillige valg, at begrænsningen vil fremme vedkommendes interesser eller velfærd. Denne type af grunde bør altså inddrages, når friheds- eller autonomibegrænsende politikker og handlinger evalueres. Afhandlingen underbygger ovenstående konkluderende påstand gennem fem artikler.

I tråd med det generelle synspunkt i litteraturen er udgangspunktet for diskussionen, at der ønskes alternativer til at efterlade de uforsigtige (fx den forulykkede motorcyklist) i en nødsituation uden tilbud om assistance. Det synes ubarmhjertigt ikke at tilbyde hjælp til folk i nød. Af samme grund har litteraturen omhandlende uforsigtighedstrilemmaet fokuseret på at finde alternative løsninger, hvor opmærksomheden især har været rettet mod de to tilgange beskrevet ovenfor. Det første alternativ er at yde *ubetinget bistand* til de uforsigtige ved at beskatte alle. Afhandlingens første artikel (Artikel 1: Is

Anti-Paternalism Enough?) argumenterer for, at en sådan kollektiv forsikringsløsning i sig selv er utilfredsstillende med hensyn til at minimere tilfælde af problematisk utilstrækkelighed. Endvidere argumenterer jeg for, at en fyldestgørende retfærdiggørelse af den relevante forsikringsløsning synes at involvere paternalistiske aspekter (sidstnævnte argument gives i den femte artikel, som jeg vender tilbage til nedenfor).

En anden mulig tilgang, som ligeledes har fået stor opmærksomhed, er at introducere *restriktioner* på de uforsigtige aktiviteter. I denne sammenhæng er mange tilsyneladende paternalistiske politikker også bredt anerkendt som værende moralsk tilladelige (fx krav om at anvende sikkerhedssele og styrt-hjelm i trafikken). Af samme grund har flere modstandere af paternalisme forsøgt at begrunde sådanne restriktioner på ikke-paternalistisk vis, dvs. uden henvisning til de gavnlige (fx sundhedsfremmende) effekter for individerne, hvis frihed eller autonomi begrænses. Eksempelvis er restriktionerne i stedet blevet begrundet med, at den enkeltes uforsigtige valg kan have konsekvenser for andre. Denne ikke-paternalistiske strategi er blevet præsenteret som en mulig løsning på trilemmaet. I den anden artikel (Artikel 2: On the Anti-Paternalist Project of Reconciliation) og i den tredje artikel (Artikel 3: Harm to Self or Others) argumenterer jeg for, at der er vigtige forskelle på paternalistisk og ikke-paternalistisk begrundede restriktioner. Restriktioner indført alene af ikke-paternalistiske grunde er sårbare over for hypotetiske modeksempler og formår ikke på tilfredsstillende vis at imødekomme hensynet til tilstrækkelighed.

Den fjerde artikel (Artikel 4: Paternalistic Respect and Concern) svarer på en potentiel indvending til mit argument. Indvendingen er, at når jeg betoner de distributive fordele ved paternalisme for så vidt angår hensynet til at sikre tilstrækkelighed, så overser jeg, at politikker og handlinger også har en ekspressiv dimension. Hvor jeg måske har ret i, at paternalisme er at foretrække fra et distributivt perspektiv, så synes paternalisme ikke at være at foretrække fra et ekspressivt perspektiv. Problemet er, at paternalistisk begrundede handlinger og politikker udtrykker manglende respekt for de personer, som der gribes ind overfor. Som svar til denne indvending argumenterer jeg for, at der er relevante måder, hvorpå paternalisme udtrykker både respekt og bekymring for de uforsigtige (og hvorpå anti-paternalisme *ikke* gør det).

Den femte artikel (Artikel 5: The Imprudence Trilemma) illustrerer, hvordan de første fire artikler besvarer projektets overordnede problemstilling. Artiklen konkluderer, at det synes vanskeligt at identificere tilfredsstillende tilgange til trilemmaet, der ikke involverer (som minimum nogle aspekter af) paternalisme. Alle argumenter i afhandlingen peger i retning af, at vores reaktion på trilemmaet bør være at acceptere det paternalistiske synspunkt.

English Summary

This dissertation examines how we should respond to situations in which a person acts profoundly imprudently. We can, e.g., imagine the motorcyclist who prefers to drive without insurance and without a helmet. How should we, or the policy-makers, counter such imprudent activities performed by others?

One option is that we do nothing, meaning that we do not interfere with other people's imprudent behaviour, at the same time refraining from providing assistance in cases where the risk of the activities materialises. A second option is to provide unconditional assistance to the person in need by taxing everyone. A third option is that we regulate the risky activity prior to the accident (e.g. by forcing the person to take out insurance, imposing security measures, or perhaps banning the activity in question). No matter what we choose, our choice seems to compromise at least one of the following moral considerations: i) satisfying sufficiency, ii) avoiding paternalism, or iii) internalising the costs associated with the risky activities (so that the persons performing the activities carry the relevant costs). For the same reason, it has been pointed out that together the three considerations constitute a trilemma, the so-called 'imprudence trilemma.'

The dissertation argues that we should accept paternalism when people act so imprudently that they risk suffering serious, absolute deprivation as a result (i.e. in cases of relevance to the trilemma). That is *not* to say that we should *always* interfere when a person acts profoundly imprudently. The paternalistic view defended is that it is a good and relevant (but not necessarily decisive) reason in favour of interfering with a person's voluntary choices that such interference will promote the person's interests or well-being. Pace the anti-paternalistic view, I argue that such reasons should be included in the assessment of policies and actions that interfere with people's liberty or autonomy.

In line with the common view in the literature, the starting point of the discussion is that we should look for alternatives to leaving the victims of imprudent activities without an offer of assistance. It seems harsh to refuse to provide aid to people in need. Therefore, the literature on the imprudence trilemma has focused on finding alternative solutions. In this context, the two approaches mentioned above (i.e. unconditional assistance and regulations) have received considerable attention. One alternative is to provide unconditional assistance to the imprudent by taxing everyone. The first paper of this dissertation (Article 1: Is Anti-Paternalism Enough?) argues that such a collective insurance model is in itself unsatisfactory with respect to minimising

problematic cases of insufficiency. Furthermore, I argue that an adequate justification of the relevant insurance scheme seems to involve aspects of paternalism (the latter argument is provided in Article 5).

A second option, which has also received a lot of attention, is to introduce restrictions on the risky activities. In this context, many seemingly paternalistic policies are also widely recognised as being morally permissible (e.g. mandatory seatbelts or helmets in traffic). For the same reason, several opponents of paternalism have sought to justify such restrictions in a non-paternalistic manner, i.e. without appealing to the interests or well-being of the persons interfered with. Instead, the relevant restrictions have been defended by appealing to the fact that people's imprudent activities are likely to have negative consequences for others. This non-paternalistic strategy has been presented as a possible solution to the trilemma. However, in the second paper (Article 2: On the Anti-Paternalist Project of Reconciliation) and in the third (Article 3: Harm to Self or Others), I argue that paternalistically justified regulations rest on a more secure footing than do their non-paternalistic counterparts. Regulations adopted solely for non-paternalistic reasons are vulnerable to hypothetical counterexamples and fail to adequately address the concern regarding sufficiency.

The fourth paper (Article 4: Paternalistic Respect and Concern) replies to a potential objection to my argument. The objection is that while emphasising the distributive advantages of paternalism in terms of satisfying sufficiency, I ignore the fact that policies and actions also have an expressive dimension. While I might be right that paternalism is to be preferred from a distributive point of view, paternalism may not be preferable from an expressive perspective. According to this objection, paternalistically justified acts and policies are expressive of disrespect toward the agents interfered with. In response, I argue that there are relevant ways in which paternalism is expressive of respect and concern for the imprudent (and in which anti-paternalism is not).

In the fifth paper (Article 5: The Imprudence Trilemma), I show how the first four papers respond to the overall research question of the project. The paper concludes that it seems difficult to identify satisfactory approaches to the trilemma that do not involve (at least some aspects of) paternalism. All the arguments presented in the thesis propel us toward accepting the paternalistic view in response to the imprudence trilemma.