

## Is There a Right to Live an Unhealthy Life?



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## This presentation is based on

Forthcoming AJOB-article

- Ethical challenges with bariatric surgery
  - Prejudice
  - Autonomy
  - Free will
- Previous work on privacy, confidentiality, liberty, autonomy, and informed consent
- Previous work on concepts of health, welfare and well being.

## Some cases

- Newborn screening
- Obesity
- Alcohol consumption, drug abuse
- Tooth decay
- Piercing
- Motorcycle driving without helmet
- Vaccination
- Smoking
- (exposure to ) Infectious diseases
- Family intermarriage: among cousins

## Agenda

- Is there a right to live an unhealthy life?
  - Answer: YES
- What questions are involved?
  - Personal autonomy
  - Free will
  - Responsibility
    - For myself
    - For others
    - Solidarity
  - Duty: Do I have a duty to live healthy?
  - What is “unhealthy”? What is “health”?

## Arena of tension (pragmatic)

- |  |   |
|--|---|
| <ul style="list-style-type: none"><li>• Life style interventions</li><li>• Paternalism</li><li>• Intrusion into the private</li><li>• Colonization of life-world</li></ul> | <ul style="list-style-type: none"><li>• Minimal self-care, decay</li><li>• Autonomy</li><li>• Lack of intervention</li><li>• Missing preventive opportunities</li></ul> |
| <ul style="list-style-type: none"><li>• For the best of<ul style="list-style-type: none"><li>– the individual?</li><li>– society?</li></ul></li></ul>                      | <ul style="list-style-type: none"><li>• For the best of<ul style="list-style-type: none"><li>– the individual?</li><li>– society?</li></ul></li></ul>                   |

## Terminology

### Self neglect

- “inability of a person to understand the consequences of his or her actions or inaction when the inability leads to or may lead to harm”.
- a. The failure to provide for oneself the basic needs to avoid physical harm or suffering.
- b. The inability to understand the consequences of that failure.
- Lack of willful intent
- “Act of omission”

### Lack of self-preservation

- Willful intent
- Self-preservation
- Hobbes:
    - Establishment of government
    - Revolt against government
  - Social contract theories
  - Adorno

## (lack of ) Self-preservation

- Of mind?
- Of body?
- Of person?

## Self-preservation

### Descartes, Kant, Hegel

- Mind over body
- Primacy of subject reified as mind
- Truth through mind
- (Rational) duty to preserve body (and mind)

### Adorno, (Merleau-Ponty)

- Adorno: body also
- Truth in body
- Connection to others through the otherness in oneself
- One has to cultivate oneself in order to develop a non-violative relationship to the Other
  
- Merleau-Ponty: lived body

## Is there a right to live an unhealthy life?

- Yes!
- Individual liberty: interfering with the liberty of an individual, against his/her will, cannot be justified as long as the individual does no harm to others (Mill JS. On Liberty 1869)

## How to justify public health interventions?

### 1. Overall Benefit

- The overall benefit from the intervention is high.
- Public health decisions made on the basis of overall evidence is ultimately better for each one of us, even if particular interventions may not directly benefit some of us.

Faden 2010

- Argument does not hold against claims of individual liberty.

## How to justify public health interventions?

### 2. Collective Action/Efficiency:

- Most have to participate in order to obtain good outcome, e.g. herd immunity in vaccination

Faden 2010

- Argument does not hold. No significant (biological) “herd effects” of a healthy life (although there are social “herd effects”)

## How to justify public health interventions?

### 3. Communitarianism:

- What is good for the whole group is good for the individual

Faden 2010

- *Petito principii*: What is good for the individual is defined by the welfare of the group (Circular)

## How to justify public health interventions?

### 4. Fairness in the Distribution of Burdens

- Burdens have to be roughly equivalent for everyone.

Faden 2010

- Is relevant in egalitarian contexts.

## How to justify public health interventions?

### 5. The Harm Principle

- the only justification for interfering with the liberty of an individual, against his/her will, is to prevent harm to others (Mill JS. On Liberty 1869)
- Analogy: There is a duty to participate in research, because not doing so would harm others. (John Harris)
- Harm to others:
  - Physical harm: ?
  - Mental harm: ?
  - Economic harm: ?
    - E.g. compulsory helmet law is justified by the diversion of emergency personnel and resources (Jones & Bayer 2007)

## How to justify public health interventions?

### 6. Liberty-limiting Continua

- The Nuffield Council's "Intervention ladder":
    - Least intrusive action: Doing nothing
    - *Provide information.* Inform and educate the public,
    - *Enable choice.* Enable individuals to change their behaviours
    - *Guide choices through changing the default policy.*
    - *Guide choices through incentives.*
    - *Guide choice through disincentives.* Fiscal and other disincentives can be put in place to influence people not to pursue certain activities,
    - *Restrict choice.* Regulate in such a way as to restrict the options available to people with the aim of protecting them,
    - Most intrusive action: Eliminating choice
- Nuffield Council of Bioethics 2007

## How to justify public health interventions?

### 7. Paternalism

- Soft/Weak: Interference with choices that are compromised with regard to autonomy or voluntariness
    - Paternalism due to reduced ability, e.g. reduced cognitive capacity)
  - True/Strong: A person's preferences is compromised in order to promote the best interest of the person.
    - Hard to justify
  - Libertarian: Make it easier for the individual to behave in their best interest
    - Not paternalism in the strict sense
- Feinberg 1986; Dworkin 2005; Faden 2010

## Autonomy?

### Strategy 1:

- People who are not able to take care of their health (and thereby their best interests) are not autonomous, and have to be decided and cared for.



## Autonomy?

### Strategy 2:

- The context makes people unable to understand and take care of their health (and thereby their best interests) and are to be assisted.
- *Petitio principii*

## Free will?

- Do persons who do not pay attention to their own health (e.g. smoking; obesity) lack free will?
  - Are they subject to compulsion?
  - Are they subject to addiction?
- Easy solution:
  - Adjust second order prefs
  - Harry Frankfurt
  - Gerald Dworkin



## 8. "Deontological duty"



Immanuel Kant  
(1724—1804)

- Every rational being would want to be healthy.
- Moral imperative to preserve body and soul

## 9. Cultural conformity

- Aesthetic ideals
- Norms of look
- Individual responsibility



## Healthism

- Healthism is regarded to be an ideologically insidious force, which, "...by elevating health to a super value, a metaphor for all that is good in life, ... reinforces the privatization of the struggle for generalized well-being"
- Robert Crawford: 'Healthism and the medicalization of everyday life' 1980.

## Origins and mechanisms of healthism

- **Advances in health technologies** in the mid to late 20th century
- **Ambitious 'mission statements'** of health care organizations and professional bodies
- (Consequently), **improved expectations for longevity and health status**
- **Declining fertility rates** alongside (for some) **rising leisure time and disposable income**
- Rise of **consumerist movement**, linked in the 1960s and 70s to left-wing anti-authoritarianism and civil rights ideologies, and in the 1980s and 90s more to right-wing, free-market ideologies
- General trend in western society towards reflexivity and **self-awareness** ('the cult of the individual'), leading to expectations of self-fulfilment and heightened consciousness of minor bodily symptoms and deformities
- Widespread **commercialization of health**, with heavy media interest in health topics—leading to a climate of insecurity and alarm about disease
- **Progressive medicalization of all aspects of daily life** including food choices, leisure activities, mood changes and coping with life events

Greenhalgh and Wessely 2004

## Duty to be healthy

- Combination of a medical logic and a social logic:
    - Responsibility for own illness (punishment from gods for bad life)
    - Self help, extended to own health:
    - *what is good for you physically or medically is what you should desire socially.*
    - "The task of the medical profession is to bring about a change in day-to-day behavior, to create a new style of life, and almost, if we dared a new morality, a true psychological change."
- Claudine Herzlich and Janine Pierret, *Illness and Self in Society*, trans. Elborg Forster, Baltimore: John Hopkins Press (1987).

## Historical connotations: Gesundheitspflicht

- 1939 was designated as the year of 'the *duty to be healthy*'
- In October the same year Hitler began a euthanasia programme

## Unrealistic health goals?

- “- Do not try to live forever. You will not succeed.
- Use your health, even to the point of wearing it out. That is what it is for.
- Spend all you have before you die; and do not outlive yourself.
- Take utmost care to get well born and well brought up.”

(Shaw's Preface on Doctors | The Doctor's Dilemma fra 1911: quoted from Skrabanek 1994: 28).

## Is there a duty to be healthy?

1. Overall Benefit (utilitarian)
2. Collective Action/Efficiency (utilitarian)
3. Communitarianism
4. Fairness in the Distribution of Burdens (justice)
5. The Harm Principle
  - the only justification for interfering with the liberty of an individual, against his/her will, is to prevent harm to others (Mill JS. On Liberty 1869)
6. Paternalism
  - Soft/Weak; True/Strong; Libertarian
7. Liberty-limiting Continua
  - Nuffield Council's "Intervention ladder"
8. According to moral law based on human rationality (deontological)
9. Conforming to cultural norms

## What is “unhealthy”?

What is Health?

- Perfect physical, mental and social wellbeing? (WHO)
- Ability to realize goal (I Pörn)
- Ability to contribute to obtaining goal? (C Whitbeck)
- Ability to realize vital goals (minimal happiness) (L Nordenfelt).

## Consequences of unhealth

- Less attention from health care?
- Retrospective
  - Luck-egalitarianism
  - Difficult to defend
  - The (social) process of designating responsibility is
    - Disrespectful
    - Unfair (E Anderson Ethics 1999)
  - Trust
- Prospective
  - Taxation of unhealthy products and activities

Cappelen and Nordheim JME 2005; Feiring 2006

## Is there a right to live an unhealthy life?

- Easy, straight forward answer: YES
  - Premise: individual rational choice
  - Harm principle
- Many arguments for a duty to live a healthy life
  - Non of them are knock down arguments
- No consequences (in health care) from living an unhealthy life (but there are other (social) consequences)
- Health is a question of the good life, which may have many answers.
- Health interventions and health advice are not always as effective as intended (A Foldspang).
- Is it wise?