

## Legal Paternalism and the “right to take risks”<sup>1</sup>

Katrin Töns<sup>2</sup>

### Abstract

After introducing “legal” or “state” paternalism as the prevention of individual risk-taking by the means of social policy (part I), the presentation aims at the critical assessment of van Parijs’ concept of “mild paternalism”—that is: the lifelong guarantee of a monthly basic income without means test and work requirements. Grounded in a perception of human identity that treats different stages of the same life cycle as different persons, mild paternalism is presumed to be legitimised by the argument that the gradual allocation of resources over the life cycle protects the security of the “later self” of an adult recipient from the risk of being wasted by her or his “earlier self”. However, given the probability that particularly young people are likely to harm their “later self” when they have nothing to lose, the positive and negative aspects of mild paternalism are weighed against alternative policy options (part II).

### Introduction: The “Age-resource dilemma”

Let me begin my presentation by pointing to what I call the “age-resource dilemma.”

There is a general acceptance in our culture that the state cares for the elderly. At the same time, hardly anyone questions the vast inequalities involved when the equipment of young citizens with resources to start their adult life is largely considered a matter of private family relations. On the one hand, this could be considered as problematic for the following reason: Compared to old people, young people cannot look back on a long asset-building work life. At the same time, they need more resources in order to invest in their future. On the other hand, it could be argued that young citizens should be the “have-nots,” because they can only strive for something they do not start out with in the first place. The lack of resources provides strong incentives for them to build up an existence. Besides, young people would probably feel uncomfortable with the idea that the financial responsibility for their existence is handed over from their parents to the state. They are looking for challenges which correspond to their particular preferences and talents, and they expect that their choices will make a difference to society. With regard to young age, the allocation of resources over the life cycle as well as the object of distribution (“cash” or “in means”) are extremely sensitive policy issues. While the provision of security and “risky” options might be conflicting policy goals, young people need both, and, as I will argue in more detail in this presentation, they have a particular right to both.

From the perspective of the concerned policy-designer, a solution to this “age-resource dilemma” is usually perceived in terms of genuine start-chances. Ideally, “start-chances” or “opportunities” combine resources, incentives, and choices. They open doors without

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<sup>2</sup> Research assistant, department of political science, University of Muenster, Germany, E-Mail: ktoens@uni-muenster.de

guaranteeing success or anticipating the direction of life. The recipients of opportunities remain under the risk to fail and, hence, are expected to act rationally.

In most countries, the collective responsibility to provide citizens at least once in their adult life-time with genuine opportunities is becoming more important due to vast inequalities in wealth, income and power between the generations. To give an example from Germany, the welfare population has not only been growing during the last two to three decades, it has also become younger. While the number of welfare<sup>3</sup> recipients over the age of 65 has been steadily decreasing throughout the last three decades from 28 % in 1965 to 6 % in 1997, the rate of welfare recipients under the age of eighteen increased from 32 % to 37 %.<sup>4</sup> Particularly striking is the growing welfare dependency of children. In the former West Germany, the number of welfare recipients who are younger than seven increased from 2.0 % in 1980 to 8.1 % in 1997. In the new *Länder* and East-Berlin, it more than tripled in a much shorter time period from 3.6 % in 1991 to 11.2 % in 1997. In the light of these numbers, it seems adequate to speak of the “infantilisation of poverty” (*Infantilisierung der Armut*).

The chances of young welfare recipients to inherit property or to receive a more immediate financial support are rather critical. Every other child on welfare lives in a one parent household. Not only do single mothers provide for the largest welfare rate (*Sozialhilfequote*) of 28.3 % in Germany, they are also dependent on welfare for longer time periods than other welfare recipients (on average 38.1 months).

Beyond the aspect of poverty, there is a more subtle dimension to the disadvantage of young welfare recipients. According to this years Shell-study on youth living in Germany (Fischer et al.:2000:14), young people are more likely to develop trust in themselves if they are able to perceive their parents as competent persons who place trust in them. Given that most young welfare recipients lack strong role models because their parents are on welfare too, their chances to reach a long-term perspective on their lives as autonomous decision makers could be severely constrained.<sup>5</sup>

On a larger scale, the changing structure of the welfare population reflects a growing income polarisation and its dimensions of age and gender (Huster et al. 1997).

If we envision a society that is not indifferent to the life chances of young citizens, a model of responsive state intervention needs to be established. However, with establishing such a model two aspects must be considered: firstly, the problem-solving capacities of the current nation state and secondly the autonomy-restricting dimension of state paternalism. A first set of problems derives from the fact that while the importance of the paternalist role of the state increases its economic and distributive sovereignty is severely constrained by external changes in its environment. The pressure deriving from the process of European integration as well as the increase of competition in the world economy hampers the ability of nation states to act individually.

While these constraints shall be kept in mind, I will focus more closely on the second set of problems related to the concept of legal paternalism and its application to the age-resource dilemma in our current societies. Historically, “legal” or “state” paternalism has become subject to severe criticism with the rise of the nation state and an increasing awareness for the potential abuse of power by the state. Liberal philosophers such as Kant and Mill have

<sup>3</sup> The term „welfare“ refers to those benefits of the German *Sozialhilfe* that secure subsistence level (*HLU-Leistungen*).

<sup>4</sup> Source: Adapted from *Statistisches Bundesamt 1998, Sozialhilfe in Deutschland: Entwicklung und Strukturen*. If not indicated otherwise, numbers refer to the former West Germany until the year of 1990 and from 1991 onwards to the united Germany.

<sup>5</sup> I do not claim here that single parents on welfare lack competence by any means. However, it seems reasonable to assume that—from a child’s perspective—there is a dimension to competence that depends on the successful integration of a parent into the workforce.

pointed to the conflicting impact of state intervention. While state interference increases the scope of autonomous decision making for citizens, it also provides a potential threat to their freedom. The critical reflection of paternalist action by the state has become increasingly significant with the growing power of the welfare state to intervene in the life cycle of individual citizens.

In the following sections, the question to what extent legal paternalism provides a solution to the “age-resource dilemma” shall be examined in more detail. In the first part, I will argue that any concept of legal paternalism designed to solve the “age-resource dilemma” must meet the following four criteria: it must grant *security*, provide *incentives for risk-taking*, respect the *autonomy* of young citizens, and provide a *protection against exploitation* by third parties. In the second part, three competing models of state intervention shall be discussed with respect to these four qualifying criteria. By way of a conclusion, arguments in favour of a flexible and differentiated model of state intervention will be brought forward.

## **I The definition and scope of legal paternalism with regard to the “age-resource dilemma”<sup>6</sup>**

Legal paternalism is both extremely limited and powerful. It is limited due to the lack of state capacity to treat citizens as individual persons with particular characteristics and preferences. Yet, it involves an extreme power difference considering that the subject of state intervention—in our case a young person lacking the barest means of existence—is confronted with nothing less than a nation state. It is usually assumed by liberal theorists that a paternalist act by the state can only be legitimised if it is compatible with Mill’s harm principle (Dworkin 1971; Feinberg 1986; VanDeVeer 1986). According to Mill’s harm principle, the liberal state “S” is only allowed to interfere with the decisions of the subject of state intervention “B” if the ultimate aim is to avoid harm to third parties. The physical and moral well-being of “B” cannot be a legitimate reason for state intervention (Mill [1861] 1975:15). However, this definition of a legitimate state act contradicts with the very meaning of paternalism. A state act that can be defined as paternalist only refers to those cases where one party interferes in the affairs of another with the aim of promoting his/her own good or preventing harm from accruing to that other (VanDeVeer 1986:18). It does not count as paternalism if the state “S” directs a paternalist act “A” towards “B” for the benefit of “C”.

Liberal theorists try to avoid the problem of legitimisation by presupposing the consent of the subject of state intervention. There are different consent theories that define the scope of “autonomy respecting” paternalism which cannot be discussed in more detail here (for an in debt discussion see VanDeVeer 1986).

With respect to young age, legal paternalism is usually legitimised by the assumption of retrospective consent. The legitimisation of the paternalist act “A” is based on the assumption that decisions can only then be fully rational (that is “in the best interest of the decision maker”) if the decision maker is able to oversee her or his life cycle taking into consideration different kinds of vulnerabilities at different stages. Thus, a paternalist act “A” is designed to

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<sup>6</sup> The term paternalism has the advantage that it is widely accepted. However, I wish to point out that I actually define “paternalism” in terms of “parentalism” which is both gender sensitive and gender neutral. It is gender sensitive in the sense that it is responsive to both gender roles by involving the protective force that has been traditionally reserved to the role of the “caring mother” as well as the strength and authority traditionally assigned to the role of the “male provider”. It is gender neutral, because both, men and women, as single parents or part of a heterosexual or gay/lesbian couple are able to act in a paternalist way.

prevent the risk of irrational decision making by “B”, who is unable to foresee the consequences of his/her acts due to young age and/or the lack of experience. It is assumed that “B” consents to the paternalist act “A” in retrospect (if he or she is old and/or experienced enough to decide rationally).

The *security* of “B” should certainly be one goal of the paternalist state, because who if not the adolescent should be allowed to make mistakes without suffering the whole range of negative consequences. But with respect to the age-resource dilemma, security should not be the only goal. A state that is exclusively concerned with the financial security of young citizens not only disrespects diverging security needs, but—which is worse—enhances irrational decision-making. Knowing that they live fairly secure (that is: without serious *risk-taking*), young people might not be particularly encouraged to act with reason. Hence, the paternalist state should encourage rationality by leaving certain risks up to the decisions of the subject of state intervention. Everything beyond a moderate level of security should be declared a goal one needs to strive for privately or at least half-privately by giving something in return for a higher level of security granted by the state.

The necessity to leave certain risks up to individual decision-making is also a matter of trust in the competence and *autonomy* of the subject of state intervention. “Competent persons are centers of cognition and originators of decisions, decisions affecting the welfare and life-direction of the decision-maker ... [Hence,] respecting a person must involve, in some fashion, not undermining that person’s decision-making capacities, his decision-process, or rendering the latter impotent to eventuate in chosen outcomes” (VanDeVeer 1986:5). After all, the magical status of being an adult is very much tied to the ability of fully deciding for oneself and charting ones own course. However, there are limits to the range of individual decisions that deserve to be called autonomous. If “B” thinks of him- or herself as an autonomous person but is actually influenced in his/her decisions by the *exploitation* through “C”, his/her acts can hardly pass as autonomous. The paternalist state should not only encourage and respect autonomy, it should also protect and/or re-establish the very conditions that make autonomous decisions possible. The least thing the state can be expected to do is to avoid creating the conditions that are favourable to “B’s” exploitation by third parties.

## II Three competing models of state intervention

The question I would like to address next is how do different models of state intervention meet these four qualifying criteria: security, risk-taking, autonomy, non-exploitation? With regard to this question, I shall take a closer look at three competing models of state intervention: van Parijs’ (1997) concept of “mild paternalism” (II.1), the model of the “stakeholder society” introduced by Bruce Ackerman and Anne Alstott (1999) (II.2), and the “distributive subjectivism” of Richard Arneson (III.3). The first two concepts have in common that they are primarily concerned with the allocation of resources over the life cycle. What differentiates them is that they opt for two contrary models of allocation. While van Parijs favours the gradual allocation of resources over the life cycle, Ackerman and Alstott advocate the rights of citizens to receive one larger amount of money at young age. The third model focuses on the object of distribution by placing priority on decent work places over “cash.”

## *II.1 Mild paternalism*

With regard to the issue of allocation van Parijs' basic income guarantee (BIG) patronises young citizens for two reasons. Firstly, the resources citizens have a right to receive will be paid in small weekly or monthly portions. More freedom could be provided through paying one or two larger amounts of money. But, income security over the life cycle has a clear priority over the freedom of the citizen to decide whether and how the money should be spent. Secondly, the full monthly income cannot be received before full age. Until young people reach the age of eighteen, they receive only half.

It is remarkable that van Parijs does not justify the holding back of resources by the state through consent theory. In his view, the withholding of resources can only be described as "mild paternalism." In other words this "non-act" ("non-act" because it is more a refusal than an intervention) is no real paternalism. Grounded in a perception of human identity that treats different stages of the same life cycle as different persons, mild paternalism is presumed to be compatible with the harm-principle. It is legitimised by the argument that the gradual allocation of resources over the life cycle protects the resources of the "later self" of an adult recipient from being wasted by her or his "younger self." (van Parijs 1997:46).

However, van Parijs justification on non-paternalist grounds does not hold. Firstly, it is problematic for ethical reasons. If "B" (me at  $t^1$ ) is not being held responsible for the security of "C" (me at  $t^2$ ), how can "C" (me at  $t^2$ ) be held responsible for the action of "B" (me at  $t^1$ )? In other words, if the imagination of two numerically different persons implies that "B" cannot be held responsible for the future security of "C", then this would ultimately mean that "C" cannot be held responsible for the past action of "B". The ethical problems of the application of such a system become very clear if one imagines that "B" is able to kill a third person "D" at  $t^1$  without being held responsible for this act as "C" at  $t^2$ .

In the light of this, one could argue that the imagination of two persons involved on the side of "B" does not hold because it clashes with common sense which tends to assume that a person associated with the same body at  $t^1$  and  $t^2$  is numerically the same person. In other words, the reason why we are ready to accept the withholding of "B's" resources by the state is not because there are really two persons involved on the side of "B". The reason is that it makes perfect sense to protect a young person from the consequences of a lack of awareness that he/she is likely to have different interests ten or twenty years from now. In other words, nothing can be said against the fact that people might have different desires, beliefs and sensations at different stages of their lives. However, this does not mean that they are not the same person.

I will now turn to the four qualifying criteria established earlier. How does mild paternalism measure up to the criteria: security, risk-taking, autonomy, non-exploitation?

### *II.1.1 Security*

In terms of security, van Parijs' mild paternalism presents some very valuable points. It offers maximal protection for "B" who will have a lifelong basic income guarantee (BIG). However, this can only be evaluated as positive if one thinks of security solely in terms of existence or "keeping alive". A more complex notion of security should be conceptualised to include self assurance, knowing what one will do with ones life and acting accordingly. From this point of view, it seems doubtful that it is in the best interest of "B" not be held responsible for the security of his/her later age. "B" might think, "if I am only responsible for myself now, why care for later? Why not hang out with my peer group all day, smoke pot, watch movies and worry about who I am going to date next." What needs to be taken into consideration is that

van Parijs' mild paternalism is likely to enhance the focus on the present situation which one is likely to have at a young age and which could easily work towards one's disadvantage at a later age. Let me now turn to the second criteria "risk-taking?"

### *II.1.2 Risk-taking*

Van Parijs assumes that mild paternalism will actually encourage risk-taking given that BIG is only "basic" and granted without means test and work requirements. Of course, he thinks of a particular kind of risk-taking within the flexible labour market. Instead of being held prisoner in the "unemployment trap," people on BIG are able to take any "risky" job without facing "the liquidity gap and the uncertainty involved in renouncing a safe and regular benefit as a result of taking up a job which they may soon prove unable to keep or bear" (van Parijs 1997:36).

Well, let us imagine the young welfare recipient I mentioned in the beginning is blessed with basic income instead of welfare. What difference does it make to him/her? In the worst case, it does not make a difference at all because there is no guarantee for jobs. It could thus happen that our welfare recipient lives in an economically depressed area in former East-Germany and does not have the money to move in order to improve his/her chances of finding a job. For reasons of equal choice, van Parijs does abstract from inequalities that are due to regional differences in employment opportunities. He regards the place of residence as a matter of choice and because everybody's choice ought to be respected equally, so he argues, a state that compensates somebody for living in an economically depressed area by giving him/her extra money would be acting unjust. Secondly, van Parijs assumes that job motivation is intrinsic even at a young age. However, this cannot be taken for granted since young disadvantaged people can not long for something that they have not experienced yet. The chances that they are exposed to media images which tell them to consume and to have a good time now instead of worrying about later might be bigger than the chances of experiencing work.

### *II.1.3 Autonomy*

The question whether mild paternalism respects autonomy very much depends on how autonomy is conceptualised. If autonomy is defined in terms of autarky and/or the ability to realise an autonomous life plan, van Parijs' mild paternalism does not really seem autonomy-respecting. With regard to autarky, the just state portrait by van Parijs is indifferent whether young people are enabled to earn a living. What is practically ignored is that being able to earn a living might be the only way for disadvantaged young people to become a respected member of society. BIG is designed to make it possible for people to exit an unwanted job, to not be forced into work and to maximise free time. But young unemployed people can neither chose to exit a job because they did not even enter, nor are they very likely to be in the position of somebody who profits from joblessness. Their situation does not compare at all to for example a middle-aged jobless academic who might even get an advantage out of his/her situation because he/she is having more free time to spent on thoughtful writing than his stressed out university-colleagues.

With regard to the ability to plan life autonomously, van Parijs tries to avoid justifying BIG through the needs-principle. He denies that the state is obliged to redistribute money in order to take care of everybody's basic needs. A whole range of characteristics of BIG proof that redistribution ought to serve autonomy. For example, the distribution of "cash" is preferred

over “in means-benefits” because the recipient of BIG should feel free to decide what to do with his/her money. However, it seems pretty clear from the concept of mild paternalism that van Parijs has a predetermined idea what basic income should be spent for. It should be spent in order to sustain life. But not everybody might want to sustain his/her life. Think of somebody who does not want to get old by planning to commit suicide at the age of fifty. Would it not be fair to give him/her all his/her resources at once?

There are less extreme examples that show the autonomy-restricting dimension of mild paternalism. Think of “the surfer,” who is the symbol of autonomy for van Parijs. For somebody who is concerned with welfare reform, the surfer provides a pretty offensive figure, because there are certainly more important reasons for welfare reform than to enable somebody to surf all day. However, the reason why van Parijs pretends to play the surfers’ advocate is actually quite simple. He wants to make sure that tax payers are really ready to pay income to an “able-bodied” person, who is in the best age and physical condition to carry his labour power to the market. Obviously, the surfer is neither eager to be productive nor is he pregnant and/or physically handicapped. Tax payers have to be ready to redistribute money for reasons of autonomy protecting rights and nothing else, neither desert nor need.

Now, think of our young welfare recipient from an economically depressed East-German region without water, wind and sunshine to surf. Since he or she is not able to surf now, he/she could always plan to surf at a later point of his/her life. But, given the fact that Germany is not the best country to surf in, who is going to pay for the trip to Malibu let alone the basic income if he/she decides to live outside the territory of his/her state. At this point, van Parijs would deny that the state is responsible for the realisation of particular life plans by granting different amounts of money in accordance with costly and cheap preferences. However, this is not what the frustrated welfare recipient “want to be-surfer” would ask for. He or she would only ask to get paid all his/her resources at once in order to decide freely what to do with it.

#### *II.1.4 Exploitation*

Finally, one has to admit that mild paternalism provides a terrific protection against exploitation. There are basically three reasons why. Firstly, BIG is granted without means test and/or

work requirements. Consequently, it practically excludes the exploitation through welfare administrators. There are no officials in the welfare office who have the power to measure the behaviour of recipients on a higher standard than the rest of society including themselves by deciding that “it is not wrong (anyway, not illegal) to drink ... or smoke expensive cigarettes. It is only wrong (anyway, legally discouraged) to do so if you are poor” (Goodin 1988:197).

From a feminist perspective, there is a second reason why BIG provides a good protection against exploitation. BIG is granted without reference to family and work status. Hence, the state does not exclude housewives from the provision with exit options. Just as the exploited worker can exit his job, the exploited housewife is enabled to leave unwanted family relations without facing unreasonable economic hardship. In contrast to the stakeholder model (that will be discussed next) mild paternalism does even protect young girls from acting foolish by handing out larger amounts of money as love presents to the next guy they feel attracted to.

As the discussion has shown, mild paternalism can be evaluated positively in terms of security and the protection from exploitation. However, when concerning the criteria of risk-taking and autonomy, mild paternalism has some negative implications. How does this now compare to the next model?

## *II.2 The stake holder model*

According to Ackerman and Alstott (1999), the right to equal start-chances provides an urgently necessary correction of an increasing disparity in income and wealth in the United States. The richest one percent of American citizens own today almost 39 percent of the total net worth of the entire wealth. This equals a level of inequality that has only been reached once in the 1930s. According to the authors, young middle-class Americans are particularly disadvantaged by these inequalities because they cannot rely on their parents income anymore in order to pay for their college education. This is considered to be unfair because in the United States education has always been viewed in terms of both, a legitimate key to a successful work life, and a necessary precondition of civic competence and responsibility. According to the authors, however, this does not give society the right to interfere with the decisions of young citizens by forcing them into college. They adopt a post-productivist and non-paternalist model of economic citizenship rights that is compatible with the American culture of free enterprise and republican citizenship. At the core of the model lies the suggestion that every young American shall receive at least \$ 80,000—which roughly equals the amount for a four year college education—to his or her free expenditure while being held responsible for paying back the money to future generations before death.

The question remains what the implication of this model with regard to the four qualifying criteria are.

### *II.2.1 Security*

Compared to mild paternalism, the stakeholder-model contains a more radical notion of equal treatment. It not only abstracts from inequalities deriving from gender, skin colour and/or regional differences, but also from the fact that young people are particularly vulnerable to irrational decision making. This is one of the major reasons why the stake-holder model does not hold up with mild paternalism in terms of security.

The security of young citizens, let alone their “later selves,” is not a primary concern of the stakeholder society. Ackerman and Alstott do not think that it is legitimate and in addition not even necessary to design institutions in order to protect young people from suffering the full range of consequences of blowing their \$ 80,000. In their view, young Americans will be ambitious and considerate enough to realise on their own that the best thing they are able to do with their money is to start their own business and/or invest in their education. Those few stakeholders who prefer to buy a fancy car or gamble in Las Vegas should go ahead. It is considered as part of the deal that they have to suffer the consequences of their short sighted actions. As a matter of fact, Ackerman and Alstott even go so far as to claim the legitimacy of what they call cultural learning effects. They argue that future stakeholders will profit from the irrational decision making of their older peers. However, security gains on the expense of others can hardly be tolerated by a just state.

### *II.2.2 Risk-taking*

In terms of risk-taking, the stake-holder model proves more valuable. As soon as stakeholders start investing their money, they have to handle the risk to lose everything. Besides their stakes, the only thing they can count on is the monthly social security check of about six to

seven hundred dollars when they reach retirement age. It is not only the fear of loss that is likely to generate sensible decisions. In a positive sense, the stakes could inspire young people to make a life plan. The fact that they are literally put into the position to materialise options while knowing that their choices make a difference to future generations encourages them to think positively about their own future and to put their lives into perspective.

I would now like to address the question whether the stakeholder model respects and/or encourages autonomous decision-making.

### *II.2.3 Autonomy*

As I pointed out earlier, it all depends on how autonomy is conceptualised. One could argue that a state that enlarges the scope of decision making without manipulation respects autonomy. The question I will now turn to is whether the stakeholder model is autonomy-respecting if evaluate state intervention in these terms.

It could be argued and, as a matter of fact, it has been argued (Ryan 1999) that the stakeholder model reflects a clear preference for stakeholders spending their money on education. This is not only the case because young Americans have to finish highschool before they can claim their stakes and the amount of money they receive is calculated based on the financial needs of college students, but also because those who decide to invest the \$ 80.000 into college are able to receive the full amount right after they finish highschool while others have to wait until they turn twenty-one. However, from this perspective the option to not spent the stake on going to college is trivialised. The stakes should not be mistaken as student grants. Going to college is not a necessary precondition for receiving them, but an option of investment that stakeholders are free to reject. The problem of the stakeholder model is not that autonomous decision making is undermined by the state but more that it is considered to be not the business of the state whether decisions are actually made in a social environment that is favourable to exploitation.

### *II.2.4 Exploitation*

As I argued earlier, the state is not in a position to teach people how to act autonomously. However, it can be expected to avoid creating favourable conditions for exploitation.

Compared to mild paternalism, the stakeholder model could easily enhance exploitation depending on the social context of the stakeholder's decision-making. Due to the lack of autonomy-respecting peers and/or family members, some stakeholders might not be able to detach themselves from extreme social pressure when handling their stakes. A young gang member in the urban ghetto could easily be blackmailed by his peer group to invest his money into the dubious street-business of his so-called buddy. Or, think of a young housewife who acts under family pressure to invest her money into her husband's career instead of saving for economic hardship in case of divorce.

With regard to the latter case, the stakeholder model implies yet another problem. Ackerman and Alstott think of investments in child-care as somebody's private decision of how to spend their stake. This is not particularly related to the problem of exploitation, but it seems worthwhile to mention that those who invest time and their stake in future generations by raising a child should not be punished by losing both—time and money—for their own career plan.

The stakeholder model has some strong points with regard to the criteria risk-taking and autonomy while it has problematic implications when it comes to the requirements of security and non-exploitation. Let us now consider the third and final model of state intervention.

### *II.3 Distributive subjectivism*

Richard Arneson's (1990a; 1990b) "distributive subjectivism" suggests a model of state intervention that mixes utilitarian and egalitarian standpoints on issues of social justice. Distributive subjectivism is influenced by egalitarianism because it focuses on securing gains and avoiding losses for the worse-off. It is influenced by welfarism in the sense that it measures the moral value and object of distribution on the rational self-interested preferences of the worse-off. Arneson argues that the worse-off are not the needy bohemians who have a pronounced taste for leisure over work. Those badly off in lifetime prospects for welfare are the involuntary unemployed who have a rational preference for work because they lack the resources (creativity, skills, self assurance, etc.) to make use of free time. Hence, they suffer from "troublesome unemployment," and a just state is obliged to distribute decent employment opportunities and require the unemployed to work.

It is not particularly young welfare recipients Arneson has in mind here but actually older ones, who have to face a sudden and unwanted change in living conditions, such as the availability of free time instead of work as a consequence of unemployment. Hence, the question is raised whether and how distributive subjectivism is applicable to the age-resource dilemma. Let me consider the aspect of security first.

#### *II.3.1 Security*

So far, we have considered the issue of security mainly under the aspect of the allocation of resources or more precisely "cash." Higher education has played a role, though not as an obligatory requirement by the state. But, why would the requirement to work provide extra security to young welfare recipients?

When thinking of employment in terms of "learning by doing" or "on the job training", there is certainly an educational component that one could claim is particularly important to young citizens. However, as I will argue later on, the educational aspects of employment are more relevant to the requirements of risk-taking and autonomy. In terms of security, it is rather the discipline enforcing character of employment that needs to be emphasised. Youth unemployment is frequently associated with aggression, delinquency and particular forms of risk, such as imprisonment or homicide. High levels of aggression can be related to external factors in the social environment. However, biological processes in the life cycle play a role here as well. One often cited example is the correlation between male adolescence and the lack of impulse control (Selznick 1992:131).

A sociologist who has drawn attention to the interrelation between unemployment, adolescence and social isolation in the United States is William Julius Wilson (1987, 1996). Wilson's thesis is that the truly disadvantaged of the de-industrialisation and economic restructuring throughout the seventies and eighties are young black males in the urban ghetto whose life-expectancy is extremely low because they are either killed or imprisoned before they reach adulthood. According to Wilson, these young men were not primarily victims of racism but adolescent actors in a socially isolated environment cut off from the values and opportunities of the larger society.

In the German press, there is currently a debate on youth violence without any apparent motive (Eisenberg 2000). The most telling case took place in *Neubrandenburg*, where a fifteen year old boy was beaten to death by three young men who were “just bored” and, obviously, had “too much time to kill.” In contrary to the initial assumption that the assault was racially motivated as it often seems to be the case in Germany, the murders were not driven by racist motives. The victim was a white German boy who just happened to be in the wrong place at the wrong time. Although, a lot of youth violence in Germany is related to racism, boredom and/or the lack of chances and capacity to compete on the labour market might play a role more often than people are ready to admit.

I am not suggesting that putting these aggressors to work should be effectively chosen as the only strategy. Getting them off the streets by forcing them into regular employment would probably only domesticate their aggression because they could still beat up their wife and kids after work. However, the decent employment opportunities as Arneson outlines them, are designed to provide more than structured time and whereabouts. There are at least nine criteria involved which could offer the right mix of discipline, recognition, and meaningful options. State guaranteed employment must be socially beneficial (1), stable (2), include promotion possibilities (3), require low skills (4), involve a careful monitoring of task performance (5), respectful supervision (6) and on the job training (7), provide genuine choices (8), and meet the criteria of lesser eligibility (9).

From a paternalist perspective, it is not the goal of state intervention to protect third parties but the rational interest of the subject of state intervention. Hence, the fact that most young women do not pose a violent threat to society does not provide a reason to exclude them from decent employment opportunities. Although the negative effects of unemployment and joblessness are just as harmful to young women with or without children than they are to young men, the former are less likely to make the psychological impact publicly visible (Goldsmith et al. 1996a; 1996b). Hence, one should probably add a tenth criteria to Arneson's suggestion of decent employment opportunities, and that is decent day-care.

With regard to the age-resource dilemma, the distribution of jobs instead of income could have the advantage that it does not only protect the security of the later self but also of the present self.

### *II.3.2 Risk-taking*

Employment is often regarded as having a positive effect on the self-esteem of people. Given that self-esteem is acquired over the years, it seems reasonable to assume that a young person is more in need of self-esteem than an experienced mature adult. Thus, the distribution of work places offers unique opportunities while it also implies risks since access to and maintenance of a workplace very much depend on individual skills and performances.

However, it has been argued by Jon Elster (1988) and others (e.g. Moon 1988) that the distribution of work for the purpose of boosting self-esteem is self-defeating. According to Elster, “self-esteem, like happiness, dignity, or innocence, belongs to the class of states that are essentially by-products.” The public provision of employment solely to boost the self-esteem of job recipients is alleged to be an absurdity, akin to an attempt to free them from the risk of losing the race by passing out blue ribbon badges of victory to all contestants, including the ones who finished at the back of the pack. What Elster is actually saying here is that the risk to fail is part of the game, and, once the state intervenes to ease competition by increasing the number of jobs to match the participants of the game, the game is actually over.

There are different dimensions to this argument that have been dismissed as not tenable (for a detailed discussion see Arneson 1990b). I will concentrate on only one aspect that seems particularly relevant to the age-resource dilemma.

Given that the young are actually still in the process of learning, the relevant question is not how they get the job but how they perform on the job. The importance of job-performance for the self-esteem of job-holders could even be strengthened by the right to work. Because, “if you get a job by governmental largesse independent of any qualification on your part ... you would have to be a fool to take pride in the accomplishment. But a job is a bundle of opportunities, including the opportunity to do well or poorly on certain assigned tasks; and what a person makes of those opportunities can readily attract the esteem of others and in this way enhance self-esteem” (Arneson 1990b:1141). This, of course, presupposes that state-guaranteed jobs are no make-work because they have to be socially productive in order to serve as a vehicle for reasonably enhancing the self-esteem of the jobholder. In the light of these arguments, it can be concluded that under certain conditions, state-guaranteed jobs can have a positive effect on the self-esteem of those who profit from these workplaces because with regard to work performance there are other more important risks involved than not getting a job at all.

### *II.3.3 Autonomy*

Does the distribution of work instead of “cash” respect or enhance the autonomy of the subject of state intervention?

Jobs are in means-benefits which always have an autonomy-restricting dimension. However, with regard to the age-resource dilemma two arguments are worth considering. Firstly, if autonomy is defined in terms of the ability of free decision-making, it seems reasonable to assume that one has to be part of something before one is able to decide against it. Young people have to be part of the labour force in order to decide whether, under which conditions and for how long they want to participate in the labour market. Hence with regard

to young age, there is an autonomy-enhancing dimension to the distribution of jobs instead of merely “cash.”

Secondly, autonomy is not something that you are born with or that you can acquire particularly well while being at school and living under the supervision of your parents. That is the reason why a four year college education or a three year apprenticeship is usually regarded as meaningful in terms of acquiring maturity in decision making. However, this argument implies that paternalist intervention must come to an end at some point. There are no good reasons to argue that everybody must work or go to school throughout his/her whole adult life.

### *II.3.4 Exploitation*

With regard to the fourth and last criteria, there are good reasons to think that it is not the distribution of jobs but the distribution of income that is really the most efficient way to prevent exploitation. There are basically two reasons which support this theses. Firstly, there is a certain logic to the protection from exploitation. In order to be safe from exploitation in family- and/or job relations, you should be able to survive without both. Given that BIG is granted independent of family status and employment, it provides the institutional precondition for the free decision of citizens with whom, under what conditions and for how long they want to be in family-relations and/or the job-market. One could add that this institutional arrangement is all the state is able to do in order to prevent exploitation. There is no way, or at least no cheap way, for the state to check up regularly on colleagues and bosses in order to prevent exploitation. After all, the state functions as an employer itself who could easily take advantage of the employees dependence. However, for young people it might be worth taking the risks of exploitation in face of the benefits tied to a job. The criteria of security, risk-taking, and autonomy are the real advantages of distributive subjectivism while it falls short when it comes to preventing exploitation.

## **III. Conclusion**

Based on the discussion provided in this presentation, it seems appropriate to suggest a flexible and differentiated model of state intervention. Such a model would overcome the liberal premises of mild paternalism by devoting more attention to adolescent conduct. I did not try to explain specific patterns of adolescent conduct. Nevertheless, some general dispositions seem noteworthy, and these are important to social policy.

The distribution of recourses over the life cycle should take two aspects into account: firstly the necessity of a moderate protection against short sighted actions and irrational decision making and secondly the need for incentives to take risks, namely those risks which ultimately go along with putting one’s life into perspective, sorting out a life plan and acting accordingly. Obviously life plans can fail, however, every young person should be encouraged to have one.

It needs to be emphasised that, whichever form such a fine tuned system of distribution would take in the end, decent work should not only be an option but a requirement for at least three to four years of the young adult life. This requirement would ensure that young adults are provided with a reasonable mix of discipline, recognition and “learning from experience.”

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