

According to libertarians the interest of individuals should not be limited unless it harms other people's interest.¹ Modern research states that at most times, individuals do not have enough information and understanding to practise their interest, therefore government rules and regulations should assist individuals in practising their interest. A libertarian paternalist does not despise accepting information arguments as regards government regulation of behaviour, but usually gives importance to other considerations. One statement supporting this view argues that: "Equipped with an understanding of behavioural findings of bounded rationality and bounded self-control, libertarian paternalists should attempt to steer people's choices in welfare-promoting directions without eliminating freedom of choice. It is also possible to show how a libertarian paternalist might select among the possible options and to assess how much choice to offer."

In 2006, England introduced a smoking ban in public places. However, in *R (G) v Nottinghamshire Healthcare NHS Trust*², there is a claim by mental health patients that the ban on smoking in psychiatric institution violates the right to privacy under article 8³ of the convention. This brings up the question "is there a right to smoke?". Lord Justice Pill, refused to accept the principle of right to privacy with respect to the harm principle⁴ which clearly states that individual's interest should not disturb or harm other individuals. On the other hand, there are heavy duties exercised on tobacco and alcohol e.g. beer, cider, wine, and spirit.⁵ These duties are exercised to allow individuals to strengthen their self-control and avoid harmful behaviours.

¹<http://www.becker-posner-blog.com/2007/01/libertarian-paternalism-a-critique--becker.html>

² [2008] EWHC 1096

³ Human Rights Act 1998 article 8

⁴ Ibid 2

⁵<https://www.gov.uk/alcohol-and-tobacco-excise-duty>

The European Court of Human Rights (ECHR) have **been** forced to discuss the legality of assisted suicide in *R v Director of Public Prosecution (DPP)*⁶. In this case, **Petty** approached ECHR, not to punish her husband for assisting her to commit suicide. Moreover, she also argued for her individual autonomy:

"I want to be in control of my life, and that means I want to be able to live it as long as I can, but I want to be able to choose what quality of life is livable; I don't want somebody else to tell me that 'the quality of your life's ok, what are you complaining about?' I want to be able to make those choices myself. I want the help and support to make it"

However, ECHR held that the imprisonment of her husband did not violate her rights under article 2,3,8,9 and 14 of the HRA⁷

In addition, the use of helmets for transport, restricted rules and regulations for sports are also supported by the libertarian paternalism.⁸

⁶ [2009] UKHL 45

⁷ Human Rights Act 1998

⁸ Kleinig (1983) 81.