

Accepting the Choice of Unionization

Bill Menke, April 2018

As the character Neo in the film *Matrix Reloaded* so aptly put it, “Choice, the problem is choice.”

The Columbia University administration has made a series of well-articulated arguments against the advisability of graduate student unionization. In voting so strongly in favor of it, Graduate students have indicated that they do not consider these arguments decisive and that, on balance, the case for unionization prevails. The University does not accept this choice. It has declined to negotiate with the union and has asked the courts to rule that the legal right to unionize does not extend to graduate students. In the University’s view, the students not only have made the wrong choice, but also lack the authority to make *any* choice.

Columbia’s actions are strongly paternalistic. The administration sees itself acting in the best interests of both presently-enrolled students and the indefinite millions who will seek a graduate degree in the decades (or even centuries) to come¹. Graduate students need to be protected, even as in this case, from themselves.

In my opinion, this level of paternalism is not justified by the likely outcomes of unionization, which I believe will be somewhere in the mildly-positive to mildly-negative range. Furthermore, the public is much less accepting of paternalistic arguments than in the past, so that Columbia’s reliance upon them will increasingly become a source of criticism.

Over the last century, many elements of American society have shed their paternalistic tendencies. Furthermore, paternalism is increasingly seen in a negative light, both because the growing adherence to the belief that a person is best able to judge his or her good, and because of the growing recognition that paternalistic arguments are often self-serving and sometimes even have been used to justify oppression.

The recent evolution of the doctor-patient relationship is one example of a shift away from paternalism². The notion that the patient is the passive beneficiary of the doctor's medical training and judgment rapidly is being replaced with one in which both doctor and patient share responsibility for deciding upon treatments; furthermore, the patient's preferences are now seen as a legitimate – and even central - factor in decision-making.

Even so, doctors *do* routinely encounter patients who they believe are making the wrong treatment choice. In my readings, I came across this advice to a doctor dealing with such a patient:

Court orders may be invoked to override a patient's preferences. However, such disregard for the patient's right to noninterference is rarely indicated. Court orders may have a role in the case of a minor; during pregnancy; if harm is threatened towards oneself or others; in the context of cognitive or psychological impairment; or when the

patient is a sole surviving parent of dependent children³.

The exceptional cases all involve the likelihood of truly severe outcomes. In other cases, the doctor may disagree, but the patient's decision stands. The likely outcome of graduate student unionization simply does not rise to the level of severity that demands paternalistic intervention. The Columbia University administration should let the graduate student's decision stand.

¹Coatsworth, J.H., Letter to the Columbia Community from the Provost, April 18, 2018.

²Kaba, R. and P. Sooriakkumaran, The evolution of the doctor-patient relationship, *International Journal of Surgery* 5, 57-65, 2007.

³Ludwig, M. and B. Wylie, Physician-Patient Relationship, depts.washington.edu/bioethx/topics/physpt.html