**Between Reason and Coercion:**

**A Framework for Assessing the Moral Status of "Manipulation"**

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*Draft--Comments welcome but please do not cite or circulate*


This paper deals with the ethics of using principles from the psychology of judgment and decision-making to shape the decisions and behaviors of others. Recent practical and policy examples include: (1) physicians framing information in a certain way to patients, such as likelihood of mortality instead of likelihood of survival, knowing that mortality frames are much more influential than survival frames,[1] (2) employers offering lower insurance premiums to employees who do not smoke or who exercise regularly,[2] (3) employers taking advantage of the power of the "default bias" and enrolling employees in certain retirement plans that they can opt out of if they want to,[3] (4) the Food and Drug Administration mandating vivid warning images on cigarette packages to increase the salience of the negative effects of smoking,[4] and (5) environmental policymakers taking advantage of the power of social norms and informing people of how much energy their neighbors use in an attempt to pressure consumers to use less energy.[5]

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[1] Thomas V Perneger and Thomas Agoritsas, "Doctors and Patients' Susceptibility to Framing Bias: A Randomized Trial," *Journal of General Internal Medicine* (July 27, 2011), http://www.ncbi.nlm.nih.gov/pubmed/21792695.

[2] Reed Abelson, "The Smoker's Surcharge," *The New York Times*, November 16, 2011, sec. Money & Policy.

[3] Cass R. Sunstein and Richard H. Thaler, *Nudge: Improving Decisions About Health, Wealth, and Happiness*, 1st ed. (Yale University Press, 2008).

[4] Food and Drug Administration, *Required Warnings for Cigarette Packages and Advertisements, 2011-15337*, vol. 76, 2011, http://www.fda.gov/TobaccoProducts/Labeling/CigaretteWarningLabels/default.htm.

[5] Richard H. Thaler, Cass R. Sunstein, and John P. Balz, "Choice Architecture," *SSRN eLibrary* (April 2, 2010), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1583509.

Various moral concerns emerge about these practices, but one of the more elusive and underdeveloped concerns is the charge of manipulation. It is this concern that is the focus of this paper. The elusiveness and underdevelopment of the manipulation charge goes something like this: Person A describes one of these decision or behavior shaping practices, and Person B claims "That's manipulation, and therefore morally wrong!" This claim is usually followed by Person A attempting to explain why instance X is *not* an instance of manipulation, and therefore morally permissible. This is the wrong response, I would argue. The more illuminating response would be to consider what if anything is morally problematic about manipulation. So, the discourse is underdeveloped in that it relies on intuitions that manipulation is morally wrong instead of providing arguments as to why and how it is, and it is elusive in that it is never quite clear what exactly is meant by manipulation, descriptively speaking. For example, is any sort of intentional influence without the subject's knowledge manipulation? What about a case in which the subject is aware of the influence attempt but has trouble resisting it because it plays on desires or other parts of the subject's psychological make-up? Is that a case of manipulation as well?

The literature has been less than clear on this conceptual point. The following practices have all been described by philosophers as manipulation: incentivizing, offering, increasing options, decreasing options, tricking, using [resistible] threats of punishment, managing information, presenting information in a way that leads to predictable inferences, deceiving, lying, making a false promise, withholding information or options, slanting information, providing irrelevant inputs or crowding out relevant inputs, exaggerating information in a misleading way, using misleading packaging or

misleading images, creating impressions by imagery, using loaded language, trading on fear, subliminal suggestion, insinuations, flattery, guilt, appealing to emotional weaknesses or needs, initiating psychological processes that are difficult to reverse or that lead to predictable behaviors or decisions (e.g., the tendency to continue with an active decision even after becoming aware that it is more costly than originally thought, or the tendency view an option as more desirable when shown its contrast), browbeating or otherwise wearing the person down, reverse psychology, and seduction.[6] Even if we were to achieve some clarity on the bounds of manipulation, doing so would fail to answer the central moral question, which concerns the moral status of any of these practices.

The moral status of any of these practices, I would argue, *depends*. That is, it is not the case that any of these practices traditionally labeled as "manipulation" are ipso facto morally wrong, nor is it even the case that any of these practices always has a single wrong making feature (e.g., infringement on autonomy) that is always present but may be outweighed by other morally relevant factors and be all things considered ethically permissible or morally right. What then does the moral status of these methods of influence that lie somewhere between reason and coercion *depend on?* I argue that the moral status depends on the extent to which the instance of influence (1) threatens or promotes autonomy, (2) promotes virtue or vice, (3) fulfills or fails to fulfill duties, obligations, and expectations that arise out of the relationship between the influencer and influenced, and (4) aims to produce good consequences or bad ones. I will explain in

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[6] Ruth R. Faden, Tom L. Beauchamp, and Nancy M. P. King, *A History and Theory of Informed Consent* (Oxford University Press US, 1986), 261; Marcia Baron, "Manipulativeness," *Proceedings and Addresses of the American Philosophical Association* 77, no. 2 (November 1, 2003): 29, 42; Robert Noggle, "Manipulative Actions: A Conceptual and Moral Analysis," *American Philosophical Quarterly* 33, no. 1 (January 1, 1996): 43–55; Joel Rudinow, "Manipulation," *Ethics* 88, no. 4 (July 1, 1978): 338–347; Claudia Mills, "Politics and Manipulation," *Social Theory and Practice* 21, no. 1 (1995): 100, 108–110; Judith Andre, "Power, Oppression and Gender," *Social Theory and Practice* 11, no. 1 (1985): 111.

more detail the moral relevance of these factors, showing why each is necessary, and demonstrating how they work in specific cases. Before doing so, a minor terminological note. Henceforth I will refer to the aforementioned practices not as "manipulation," but as "non-argumentative influence." Non-argumentative influence is influence that operates either by bypassing a person's awareness or by relying on facts about the subject's psychology such as knowledge about their emotions, how they perceive things, how they make judgments and decisions, and what they desire. It is in contrast to influence that operates by engaging with a person's rational capacities and offering them reasons and arguments, and to influence that operates by force or severe threats of harm. In using the term "non-argumentative influence" instead of "manipulation" I hope to avoid any automatic negative associations and assumptions about moral status and thereby address the central question about what if anything is ethically problematic about these forms of influence and when.

**Autonomy**

The majority of writing on the morality of non-argumentative influence is infused with condemnation of it. The foundation of much of this is the claim that non-argumentative influence somehow interferes with an agent's autonomy. Melissa Seymour Fahmy condemns non-argumentative influence by arguing, "…to interfere in the lives of others without their consent is to usurp their authority to direct their lives as they see fit."[7] Eric Cave makes a similar argument, claiming that when A induces B to behave differently than she otherwise would have via non-argumentative influence, A

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[7] Melissa Seymour Fahmy, "Love, Respect, and Interfering with Others," *Pacific Philosophical Quarterly* 92, no. 2 (June 1, 2011): 183.

undermines B's capacity to manage her concerns since B cannot manage her concerns effectively while A is doing so. Cave argues that non-argumentative influence violates "modest autonomy," where modest autonomy means that "To act autonomously, an agent need only act from concerns not thrust on her by others in ways that overwhelm her capacity for control over her own mental life."[8] James Stacey Taylor builds absence from non-argumentative influence into his definition of autonomy, arguing that a person is autonomous with respect to a choice that she makes if and only if (i) the information on which she based the choice has not been affected by another agent with the end of leading her to make a particular choice, or a choice from a particular class of choices, or (ii) if it has, then she is aware of this.[9] He writes, "It is clear that the successful manipulation of a person into performing an action that she would not have otherwise performed would serve to compromise the manipulee's autonomy with respect to her manipulated actions."[10] He recounts the story of Shakespeare's *Othello* where Iago insinuates to Othello that his wife Desdemona is having an affair by arranging for Othello to overhear certain conversations and planting suggestive objects such as a handkerchief until Othello becomes convinced and jealous enough and kills Desdemona. Taylor writes, "Since Othello was manipulated by Iago into smothering Desdemona, he lacked autonomy with respect to his decision to do this, for it was not he, but Iago, who was the font of this decision. It was not Othello, but Iago, who originally decided to cause Desdemona's death; Othello was merely the instrument through which he brought it about. This last point is important, for it highlights the way in which Iago's control over Othello through

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[8] Eric M. Cave, "What's Wrong with Motive Manipulation?," *Ethical Theory and Moral Practice* 10, no. 2 (December 2006): 138.

[9] James Stacey Taylor, *Practical Autonomy and Bioethics* (New York; New York: Routledge, 2009), 7–8.

[10] Ibid., 41.

his control over the information that Othello had access to undermined Othello's autonomy with respect to his decisions (and hence his consequent effective first-order desires and actions)."[11]

In response to the claim that non-argumentative influence poses a threat to autonomy, Sarah Buss has produced a compelling counter-argument. Buss's argument consists of two main claims. First, she argues that, at least on a compatibilist account, we consider people to be self-governing or autonomous despite the fact that there is a past and an external world that influences their current mental states and actions, and that non-argumentative influences are no different; if the past and the external world do not pose threats to self-governance or autonomy than neither does non-argumentative influence from others.[12] Second, she argues that many well- informed, self-governing agents would endorse a policy that involved being influenced by non-argumentative forms of influence (e.g., seduction), and though she does not spell this out, this sort of endorsement would result in the influence being compatible with autonomy under accounts such as John Christman's where a person's development of some desire is autonomous only if the person "would not have resisted that development had [he] attended to the process [by which it was developed]."[13] Incidentally, Harry Frankfurt has made a point similar to Buss's first claim when he writes "We are inevitably fashioned and sustained, after all, by circumstances over which we have no control….It is irrelevant whether those causes are operating by virtue of the natural forces that shape our environment or whether they

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[11] Ibid., 4.
[12] Sarah Buss, "Valuing Autonomy and Respecting Persons: Manipulation, Seduction, and the Basis of Moral Constraints," *Ethics* 115, no. 2 (January 2005): 212.
[13] John Christman, "The Historical Conception of Autonomy," in *The Politics of Persons: Individual Autonomy and Socio-Historical Selves* (New York; New York: Cambridge University Press, 2009), 11.

operate through the deliberatively manipulative design of other human agents."[14]  For

Frankfurt, of course, what matters for autonomy is whether a person is wholeheartedly

behind the desires that move him to act, regardless of the origin of those desires.

I think that Buss succeeds in countering the prevailing view that non-

argumentative influence, or what has traditionally been called manipulation, is always

incompatible with autonomy.  When then is it incompatible with autonomy?  Let me

make a couple of modifications to the Buss/Frankfurt claims and then offer some criteria

that allow us to assess the extent to which an instance of non-argumentative influence is

compatible with autonomy.  The main modification that I would make is to reject the

equivalence of a non-argumentative influence that occurs undirected from the

environment (e.g., a song that comes on the radio and influences someone to behave

romantically, or the natural absence of an important piece of information that influences

the direction of someone's decision) and one that occurs directed at someone from

someone else (e.g., A knows about B's weakness for jazz and so puts on a jazz CD to

influence B to behave romantically, or A withholds an important piece of information

from B to get B to make a particular decision).  Why is this distinction important for

autonomy?  To see the importance we need only consider why it is that we think that

something like slavery is so morally egregious: it is not just because the slave is not able

to govern himself, it is because he is governed by someone else.  The master has imposed

his will on the slave in a way that the slave would not endorse.  And the second

modification I would make to the Buss account is to emphasize the significant difference

between contexts of seduction and romance, which Buss focuses her analysis and claim

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[14] Harry Frankfurt, "Frankfurt-Style Compatibilism: Reply to John Martin Fischer," in *Countours of Agency: Essays on Themes from Harry Frankfurt*, ed. Sarah Buss and Lee Overton (Massachusetts Insititue of Technology, 2002), 28.

of endorsement on, and other contexts. It may be that most of us would endorse, or at least not repudiate, being moved to love someone via non-argumentative influences such as romantic gestures, but this sort of endorsement is not likely be the case in many other cases of non-argumentative influence, such as if I am moved to consent to a surgery for my elderly grandmother via the non-argumentative influence of guilt used by my physician to induce me to consent.

Thus, the criteria that I would offer to allow us to assess the extent to which an instance of non-argumentative influence is or is not compatible with autonomy are as follows: (1) *the extent to which the non-argumentative influence attempt blocks or burdens options*, and (2) *the extent to which the person influenced is aware of and endorses, or were she were aware would endorse, the non-argumentative influence attempt as a process by which her desires, decisions, or actions were formed*. These are of course not new or novel criteria, as they stem largely from neo-Frankfurtian theories of autonomy such as Christman's, but it is worth explicitly outlining them as the key normative questions that should be asked when considering the compatibility of non-argumentative influence and autonomy, instead of assuming or tautologically holding that non-argumentative influence interferes with autonomy. What will be novel and make a significant contribution to the literature, I hope, is to show how autonomy interacts with other morally relevant considerations and how my framework plays out in various examples.

Before continuing to develop the rest of the framework, however, it is worth pausing to address an important question, and that is whether autonomy impaired by an instance of non-argumentative influence can be further impaired by another one.

8

Consider Johnny who decides to start smoking after much non-argumentative influence from tobacco ad companies, a process of desire formation that he does not endorse upon reflection. Thus, Johnny is not autonomous with respect to his desire to smoke. Johnny's physician decides to use counter non-argumentative influence, let us say extremely frightening ads, to try to get Johnny to stop smoking. How is it even possible that the physician's actions could impair Johnny's autonomy with respect to his smoking given that he is already non-autonomous with respect to that decision? In other words, if Johnny's autonomy is at a zero so to speak, how could it go any lower? Investigating this in a great amount of depth would take us too far afield, but my intuition is that one way in which it could is that this further manipulation (which let us say Johnny would not endorse either) makes it harder for Johnny to recover and govern himself, and in that sense does pose a *further* threat to autonomy. Now, on to what I take to be the second morally relevant consideration for the moral status of non-argumentative influence: whether it promotes virtue or vice.

**Virtue and Vice**

One objection that has been raised against non-argumentative influence is that the practice involves many vices: dishonesty or violation of trust, disrespect, arrogance, predatoriness, and laziness. Laziness because it is more work to sit down and try to convince someone of a point or a course of action by laying out arguments and responding to objections and questions than it is to appeal to their emotions or set up the environment a certain way. Predatoriness because, as Colin McGinn notes, the influencer

9

studies human weakness and plays on anxieties and insecurities;[15] and as Marcia Baron

notes, exploits emotional needs or a sense of indebtedness.[16]  Arrogance because of the

hubris involved in thinking that I know better than you what is good for you *and* that you

are not capable of understanding what is best and why.[17]  This harkens back to Aristotle's

argument that tools of rhetoric are to be used when dealing with "people whom one

cannot instruct," such that non-argumentative influence becomes necessary when the

quality of the audience degrades.[18]  And, disrespect because, as Fahmy claims, to use

non-argumentative influence is to treat the subject as a child,[19] and as Robert Noggle

claims, is to degrade her and treat her as less than a person and more like a machine

whose levers can be pushed and pulled.[20]  And finally, dishonesty or violation of trust

since non-argumentative influence involves dealing with others in a less than

straightforward way, which may damage interpersonal trust.[21]

    But as Baron points out, non-argumentative influence can also involve virtue.

Baron writes, "…the person who has the virtue corresponding to manipulativeness—a

virtue for which we do not, I believe, have a name—knows when it is appropriate to try

to bring about a change in another's conduct and does this for the right reasons, for the

right ends, and only in instances where it is warranted (and worth the risks), and only

using acceptable means."[22]  She cites the examples of persuading a reluctant friend or

spouse to seek medical help or prodding an untenured friend with a slim publication

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[15] Colin McGinn, *Mindfucking: A Critique of Mental Manipulation* (Acumen Publishing, 2008), 46–47.
[16] Baron, "Manipulativeness," 50.
[17] Ibid.; Fahmy, "Love, Respect, and Interfering with Others," 184.
[18] Aristotle, *The Rhetoric and Poetics of Aristotle* (McGraw-Hill Companies, 1984), 22.
[19] Fahmy, "Love, Respect, and Interfering with Others," 179.
[20] Noggle, "Manipulative Actions," 52–53.
[21] Patricia Greenspan, "The Problem with Manipulation," *American Philosophical Quarterly* 40, no. 2 (April 1, 2003): 160; McGinn, *Mindfucking*, 27–28; Stanley I. Benn, *A Theory of Freedom* (Cambridge University Press, 1988), 134.
[22] Baron, "Manipulativeness," 48.

record to produce.  To *not* use non-argumentative influence at certain times, or to adhere

to a form of fanatical straightforwardness is actually a vice, Baron argues, a vice of

isolationism.  I think that she is right.  Baron gives the example of not stopping a friend

from driving home drunk. To not use a form of non-argumentative influence such as

hiding the keys or distracting the friend by tempting him with a cup of his favorite coffee

is to exhibit the vice of isolationism.  To quell potential dismissals of this example due to

the subject's intoxication, let me offer another example.  Imagine a person whose friend

and roommate is overweight and developing diabetes.  The person creates an

environment that non-argumentatively influences the roommate to eat healthier by

stocking the cupboards with healthy snacks and priming the roommate to take walks by

leaving running magazines and shoes out around the apartment.[23]  Or, imagine a

physician working with a patient who has not gotten his annual colonoscopy.  The

physician non-argumentatively influences the patient to get the colonoscopy by showing

him a vivid video about failure to detect colon cancer early, or by setting up a default

appointment for the patient.   In these cases, the use of non-argumentative influence, I

would argue, involves the virtues of respect for the worth of others, kindness, and

courage.  And in both cases, it is hard to say there is any dishonesty involved, after all it

is not as if the physician is showing the patient a video of the effects of smoking and

claiming it is illustrative of the effects of failure to detect colon cancer early, nor is it the

case that the friend is putting distorting mirrors up around the apartment to get the

roommate to see herself as more overweight than she actually is.  It is also hard to say

that in either case there is laziness involved.  In fact, it would be easier to present the

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[23] John Wryobeck and Yiwei Chen, "Using Priming Techniques to Facilitate Health Behaviours," *Clinical Psychologist* 7, no. 2 (October 2003): 105–108.

friend or the patient with a simple argument full of statistics about why they should lose weight or get the colonoscopy. And it is also hard to say that there is any disrespectful, predatory, or arrogant behavior in either of these cases.

Thus, whether practices of non-argumentative influence are ethically problematic from virtue-based concerns depends. It depends on the extent to which the instance of influence promotes virtue or vice. Although usually associated with vicious traits such as disrespectful, predatory, and arrogant, the use of "manipulation" or non-argumentative influence can be motivated from and exhibit virtuous traits such as kindness, courage, and respect for the worth of others. Our intuitions about the extent to which an instance of non-argumentative influence exhibits virtue or vice depends in part on the context in which the non-argumentative influence takes place, or to be more specific, on the relationship between the influencer and the influenced, and the duties and boundaries that arise out of that relationship. So, on to the next factor relevant to assessing the moral status of interpersonal influence, the relationship between the influencer and the influenced, and the duties, obligations, and expectations that arise out of that relationship.

**Relationship Between Influencer and Influenced**

Consider the difference between two cases: the government begins priming people to eat healthier by an ad campaign that attempts to vividly illustrate the negative health and aesthetic consequences of obesity, playing on both fear and ego; and a wife begins priming her husband to eat healthier by reminding him of his father who died of a heart attack young, playing on a fear she knows he has, and also occasionally pointing out how good he looks after he has just exercised, playing on his ego. The latter case is

12

one that is familiar and usually considered unobjectionable. As a distinguished philosopher once remarked to me about the latter case, "What's the big deal with that example of manipulation? My wife knows a thousand psychological tricks to use on me, and it would be odd to say that my autonomy is impaired or that something is morally problematic about what happens in such routine interactions." His remark made me realize the importance of separating the various moral concerns about manipulation (e.g., perhaps the spouse example *does* pose a threat to autonomy, but is not morally concerning all things considered for other reasons), and also the importance of the context in which the manipulation occurs for assessing moral status, particularly the relationship between the two parties.

Thus, the reason why we find the spouse case generally morally unproblematic and the government case potentially concerning is because of the difference in duties, obligations, and expectations that arise out of those two relationships. It is entirely reasonable that the wife has an obligation to care for the wellbeing of her spouse, and that to some extent he has an obligation to care for his health for her benefit. Moreover, we expect this sort of non-argumentative influence from our spouses, and view it as occurring fairly routinely in our interactions. It is less clear that the state has an obligation to care for the wellbeing of its citizens in anything more than a negative sense of protecting them from harm, nor that the citizens have an obligation to care for their health for the sake of the state.

Before moving on to the final factor relevant to assessing the moral status of non-argumentative influence, I want to note a way in which the relationship or legitimacy factor ties the other factors together. The extent to which it is morally problematic if

autonomy is not protected or promoted, or (as we will see in a moment) good

consequences not promoted, depends in part on the relationship between the influenced

and the influencer.  For example, a doctor may have an obligation to work to enhance a

patient's autonomous decision-making, whereas an agent of the state, or an advertiser,

does not have that obligation.  Thus, a case of non-argumentative influence used by a

doctor that threatens autonomy to some extent and fails to promote the patient's best

interests is morally worse than a case of non-argumentative influence used by a state

institution or advertiser that threatens autonomy to some extent or fails to promote the

subject's best interests. Moreover, the doctor who knows her patient is more likely to be

able use non-argumentative influence to produce good consequences for the subject of

the influence since she knows her goals and values, which is perhaps not the case with

the state or an influencer far removed from knowledge about the subject's goals and

interests.


**Consequences and Aims**

I now move on to the final factor relevant to assessing the moral status of non-

argumentative influence: aims; and then I will show how the various factors interact and

how the framework plays out in various examples.  It is safe to say that the moral status

of a particular instance of non-argumentative influence depends, in part, on its aims.  An

influencer can use non-argumentative influence with the aim of producing good

consequences or with the aim of producing bad ones.  For example, Colleague A can

employ guilt to get Colleague B to relinquish her spot on an important committee because

Colleague A wants Colleague B to fail, or Colleague A can employ guilt to get Colleague

14

B to finish her latest paper because she wants to help her succeed. As another example, Physician A can employ the default bias and set up a cancer screening appointment for Patient B that Patient B does not need but will cost him a good deal of money because Physician A wants to make money off of Patient B, or Physician A can employ the default bias and set up the appointment for Patient B because Patient B needs it. Of course, good and bad cannot always be viewed in black and white terms, especially since an instance of non-argumentative influence might aim at and produce good consequences for one person or group but bad ones for another person or group. At that point we can look at the obligations that the influencer in the example has, e.g., whether they are directed towards a particular person or society as a whole. And, we can at least say that non-argumentative influence aimed at harming a person or making them worse off, as in the case of the woman who wants her colleague to fail or the doctor who wants to make an extra buck at the expense of her patient, is morally problematic.

## Application of the Moral Framework

*Application to a Public Policy Case*

I now turn to examining how the framework that I have provided would apply to two real life cases of manipulation, or behavioral influence by non-argumentative means. One existing case that has generated controversy is the case of governmental agencies such as the Food and Drug Administration (FDA) trying to influence the public to be healthier using non-argumentative measures such as vivid images on cigarette packages to make more salient the negative effects of smoking. I will address first the extent to which this practice promotes or threatens autonomy by looking at the extent to which it

15

blocks or burdens options, and the extent to which the affected members of the public are aware of and endorse (or were they aware of would endorse) the use of vivid images by the government as the process by which their decision not to smoke or buy cigarettes was formed. We face an initial epistemic challenge posed by this criterion in that it is difficult to know for certain whether subjects would or would not endorse the process. Of course, we can make some intelligent guesses, and we can begin to empirically investigate the question of whether the public would endorse this process of desire/behavior formation or not. But there is a larger problem, and that is that insofar as we are concerned about autonomy, we are concerned about the autonomy of *individuals*. It makes little sense to talk about the autonomy of the public. Therefore, there is a sense in which it is not helpful to make guesses about or empirical investigations about what processes of desire/behavior formation most people would endorse. For example, although it is reasonable to guess that, and it may turn out to be the case that, most people would endorse governmental use of vivid images on cigarette packages to increase the salience of the negative consequences of smoking, there are inevitably going to be several people who would absolutely repudiate the government's involvement in the process of their desire/behavior formations. Perhaps we could aim to preserve the autonomy of the *majority* of individuals, such that the autonomy related question at the level of public policy is whether the majority of people would endorse the non-argumentative influence. And my intuition in this particular case is that the majority of people would endorse, or at least not repudiate, that process by which their decision not to buy a pack of cigarettes or smoke was formed.

And now, to what extent does the FDA's use of vivid images to make the negative effects of smoking salient promote virtue (e.g., kindness, courage, respect for worth) or vice (e.g., disrespect, predatoriness, or arrogance) and aim at good consequences over bad ones? The government's motivation to reduce smoking using vivid images does not strike me as arrogant or predatory, nor does it strike me as disrespectful. The FDA does not fail to engage the public with arguments and reasoning because they view the public as incompetent, but rather because (1) to truly engage in dialectic reasoning about the pros and cons of smoking would be highly impractical if not impossible, and (2) they are countering the non-argumentative influence employed by cigarette advertisers. The efforts of the FDA are aimed at respecting the worth of individuals by taking up concern for the health of all citizens, not just the wealthy upper socio-economic status ones. It is well documented that the majority of smokers are of a lower socio-economic class.

Finally, let us examine the extent to which the FDA's use of vivid images on cigarette packages fulfills or fails to fulfill duties, obligations, and expectations that arise in the relationship between the influencer and the influenced. The FDA is a governmental body employed to protect and promote public health. As such, they do indeed have an obligation to protect and promote health, and it is reasonable for the public to expect that they would work to decrease tobacco use, given that it is an addictive drug that results in many negative health consequences.

*Application to an Interpersonal Case*

The second case that I want to apply the moral framework to differs from the first in that it is not a public policy case, but a case occurring at the individual-individual

level. The other way in which it differs from the first is that the first was an example of

non-argumentative influence that operated by using facts about subjects' psychology

(e.g., knowledge that they are influenced by what they find salient, and motivated by

fear) in an obvious way, whereas this second case involves non-argumentative influence

that operates by bypassing subjects' awareness. Case two is this: a physician frames a

surgery in terms of survival rates instead of mortality rates to influence her patient to

consent to the surgery.

The extent to which this practice promotes or threatens the autonomy of the

patient depends on the extent to which the patient is aware of and endorses (or would

endorse were she aware of) this framing by the physician as part of the process by which

her decision to consent was made. Whether or not the process would be endorsed likely

depends on how it is described. If the process is described as follows, the patient may not

be inclined to endorse it: "Your decision to consent was formed by a process in which

your physician framed things in a certain way (i.e., survival rates instead of mortality

rates) to increase the likelihood that you would consent to surgery." If, however, the

process is described as follows, the patient may be more inclined to endorse it: "Your

decision to consent was formed by a process in which your physician reflected on

whether to frame things in terms of chances of survival or mortality and decided to frame

things in terms of survival because she did not want to frighten you and thought the

surgery was best in line with your values and goals." Thus, one interesting thing to note

is that the extent to which an instance of non-argumentative influence promotes or

threatens autonomy may depend on the way in which, and the level of detail with which,

we describe it, at least insofar as we are operating under historical accounts of autonomy

such as Christman's. Another interesting thing to note is that the patient might endorse part of the process of non-argumentative influence (e.g., the physician non-argumentatively influencing), but not another part (e.g., the particular non-argumentative influence mechanism of framing). This problem is really a meta-problem with historical accounts of autonomy such as Christman's, but insofar as it is arguably the predominant and least problematic account of personal autonomy, we are pressed to work this out. One way to do this is to focus on whether the influenced individual is on the whole satisfied with that non-argumentative process of decision/behavior formation.

An astute observer might note that it seems as if autonomy concerns can be reduced to concerns about whether an instance of non-argumentative is reasonable given that answers to questions of endorsement will likely turn on the reasonableness of the attempt. Thus, the observer might argue, our concern is not about autonomy at all, but only about whether the influence-attempt is well intended, and is reasonable or expected in the particular context in which it is employed. In fact, Buss has made this exact argument in her paper on manipulation.[24] While I think that it is correct that the questions about endorsement and reasonableness are closely linked, I think that it is a mistake to collapse the concepts. Autonomy and reasonableness are separate concepts and concerns. Moreover, it is not always the case that the autonomy question and the endorsement question will have the same answer. The patient may see it as perfectly reasonable that a physician would try to influence a patient to make healthy decisions, but still not endorse her decision being formed in that way.

To finish the application of the framework to the example, the extent to which framing the surgery in terms of survival rates in order to get the patient to consent aims to

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[24] Buss, "Valuing Autonomy and Respecting Persons," 218.

promotes good consequences or bad ones depends on the aims of the physician; rather they are to improve the well-being of the patient, or for something malicious or bad in that context such as personal financial gain. Likewise, the extent to which the physician's behavior promotes virtue or vice depends on the extent to which the physician was acting from care and courage and the extent to which she was acting from arrogance and laziness, or would be seen by the patient as violating her trust. Finally, the relationship between a physician and a patient involves certain obligations and expectations. Physicians have an obligation to protect and promote the health interests of their patients, but they also have an obligation to protect and promote their autonomy. Patients may reasonably expect that their physician will try to protect and promote their health, but they also reasonably expect that their physician will be straightforward with them. I do not expect my mother to be straightforward with me when she tries to promote my health interests, I expect her to exaggerate about the negative effects of smoking for example, but I do expect my physician to be. To make due on her expectation to be as straightforward as possible, I would expect the physician to go ahead and initially frame the surgery in terms of survival rates, but also say to me, "That also means that so and so number of people die from the surgery." The situation might be different when we are discussing my yearly failure to exercise, in which case I expect a little less straightforwardness and a little more non-argumentative influence. For example, I would expect her to remind me that 500 people die every year from not exercising, without also saying, "That also means that millions of people do not!"

**Pluralism**

As I think that we see with this last case of the physician framing things in way that she hopes will influence the patient to consent to surgery, one challenge to any pluralistic account of the ethical permissibility or impermissibility of non-argumentative influence, such as the one I am suggesting, is how to deal with cases where an instance of non-argumentative influence is problematic with respect to one normative feature (e.g., in the physician case, autonomy, and expectations/obligations in the context of the relationship) but not another (e.g., in the physician case, consequences aimed at, and promotion of virtue over vice) and to come to an all things considered judgment about ethical permissibility. While this is indeed a challenge, I think this is where those of us working on the moral status of "manipulation" or non-argumentative influence need to go next. I think we have seen that the moral status of the wide variety of practices encapsulated by the term "manipulation" depends, and depends on a wide variety of factors. It is not always that case that influencing another non-argumentatively by bypassing or countering their reasoning capacities is morally wrong, nor is it even always the case that it infringes on autonomy or involves vices such as disrespect or arrogance. Moreover, even if an instance of non-argumentative influence did, say, infringe on autonomy, we may still find it morally permissible for other reasons given that autonomy is not the only appeal that generates normative reasons. So, we are left with a much more complex picture that requires us to evaluate particular instances based on the moral framework and then come to an all things considered judgment about the ethical permissibility, which will involve weighing some moral reasons against others.

I am not going to solve this issue in this paper, but let me make some suggestions, which will hopefully motivate future work, including my own. There are several avenues one can pursue in response to this challenge: (1) commit to one of the moral reasons in an absolutist sort of way or grant it "lexical priority" (e.g., autonomy), (2) take a prima facie approach inspired by W.D. Ross,[25] or (3) take a moral particularist approach inspired by Jonathan Dancy.[26] I am going to set aside the absolutist approach, for it is the easy response, and instead focus on making an initial sketch of the Ross and Dancy approaches. In *The Right and the Good*, Ross developed a theory of prima facie duties such that there is no master moral principle or duty, but instead there are a plurality of duties and moral reasons, and we ought to consider all of these in determining what we ought to do all things considered. Ross did hold, however, that some of these duties are more important than others (e.g., the duties related to personal relations such as non-maleficence, fidelity, reparation, and gratitude are more weighty than the duty to promote a maximum aggregate of good),[27] and that might offer us some guidance, but unfortunately Ross does not provide us with an algorithm for coming to an all things considered determination of what we ought to do, but instead refers to the notion of a "considered opinion" that "rests with perception."[28]

Dancy's moral particularism is not going to offer us an algorithm either, but it does offer an additional tool that may be useful. Particularism allows for a feature to have one moral valence in one case and another one in a different case. So, for example, impairment of autonomy might have more of a negative moral valence in one case of

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[25] David Ross, *The Right and The Good* (Oxford; New York: Oxford University Press, 1930).
[26] Jonathan Dancy, *Ethics Without Principles* (Oxford; New York: Oxford University Press, 2006).
[27] Ross, *The Right and The Good*, 19–30.
[28] Ibid., 19, 30–33, 42.

non-argumentative influence than another.  For example, in a case where we think that

the obligations and expectations regarding autonomy that arise out of the relationship

between the influencer and the influenced are strong (e.g., physician-patient) compared to

one where they are weak (e.g., advertiser-consumer, or even wife-husband).  This sort of

particularism explains some of the remarks I made earlier in the assessment of the

physician who frames information case vs. the FDA who employs ego and fear through

images on cigarette packages case, since the obligations and expectations of the FDA are

more aggregate good focused, whereas the obligations and expectations of the physician

are more autonomy and beneficence focused.  If this is correct, then one of the places to

start with the assessment of the moral status of an instance of "manipulation" or non-

argumentative influence is by assessing the obligations and expectations arising out of the

relationship between the influencer and the influenced, considering them as one moves

through the moral framework, assessing the extent to which the influence threatens or

promotes autonomy, virtue and vice, and good aims and consequences over bad ones.


**Conclusion**

In conclusion, the central moral question with respect to any practice described as

"manipulation" is *whether* it is ethically permissible.  Practices described as

"manipulation" are better described as practices of "non-argumentative influence" since

this description avoids any automatic and undefended assignments of negative moral

status.  Non-argumentative influence is influence that either bypasses or counters a

person's reasoning capabilities.  The moral status of non-argumentative influence

*depends* and *depends on* the extent to which the instance of influence (1) threatens or

promotes autonomy, (2) promotes virtue or vice, (3) fulfills or fails to fulfill duties, obligations, and expectations that arise out of the relationship between the influencer and influenced, and (4) aims to produce good consequences or bad ones. This framework is obviously a pluralistic one, and presents the usual challenge of pluralistic frameworks, which is "weighing" some moral reasons against others.  Moral particularism, with a focus on spelling out the duties and obligations that arise from the relationship between the influencer and the influenced in a particular case, is a useful theoretical framework for helping us to come to an all things considered judgment about the ethical permissibility of non-argumentative influence in a particular context.